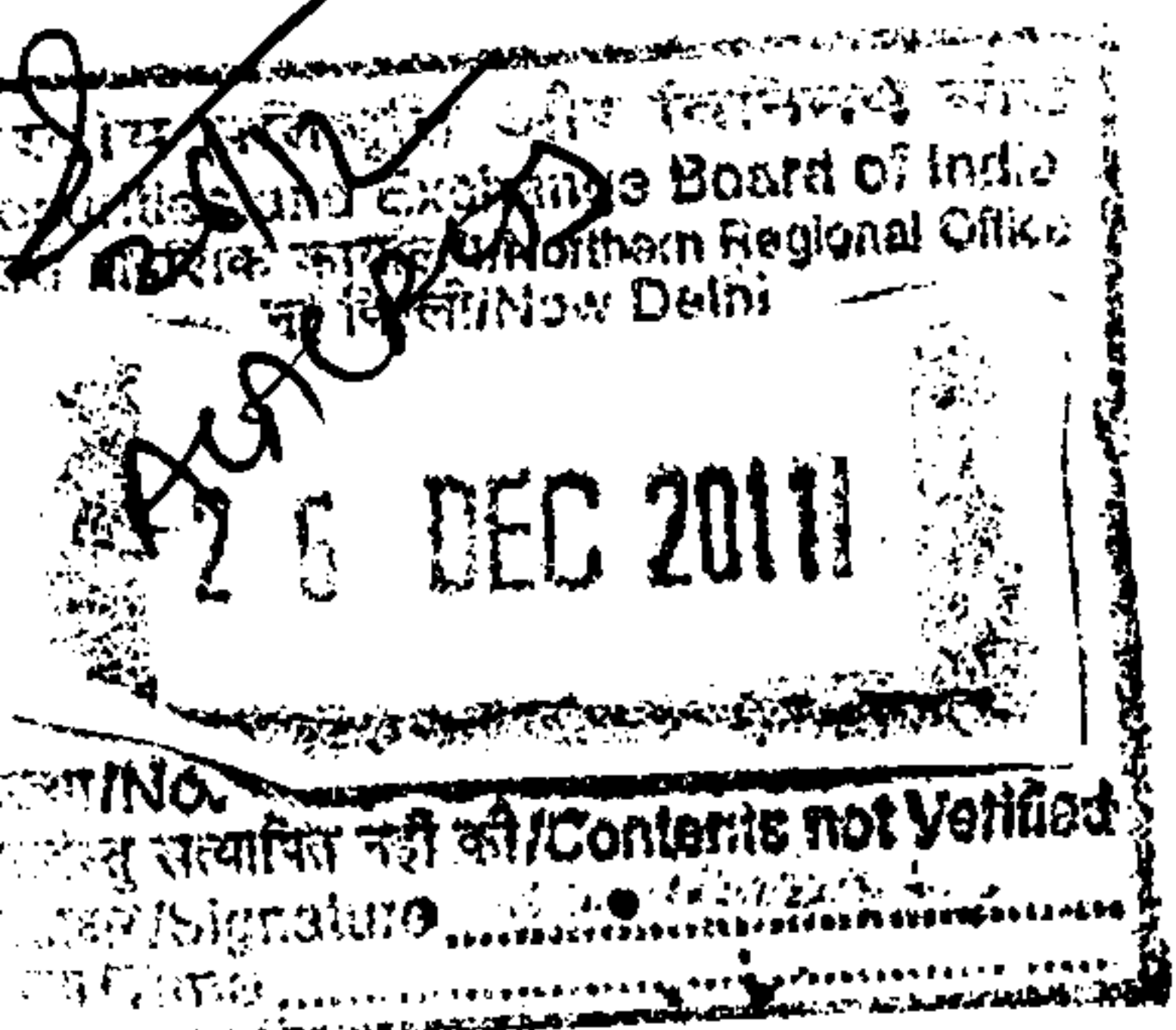


*Court of Sh. P.R. Jain A.S.J. Delhi.*

IN THE COURT OF THE ADDL. CHIEF METROPOLITAN

MAGISTRATE,

TEES HAZARI, DELHI



CC NO: 1323/02  
21/12/02

Securities and Exchange Board of India, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Head Office at Mittal Court, B - Wing, 224 Nariman Point, Mumbai - 400 021 represented by its Legal Officer, Shri Sharad Bansode.

72  
28/8/05

...Complainant

Vs.

1. Jai Mata Di Agro Plantations Ltd., a company incorporated under the provisions of Companies Act 1956 and having its Regd. office at SCO 815, NAC, Manimajra, Chandigarh.
2. Shri Deependranath, S/o Not known to the complainant; Occupation Director of the Accused No.1; resident of H. No. 589, Sector 9, Panchkula, Haryana.
3. Smt. Sangeeta, S/o Not known to the complainant; Occupation Director of the

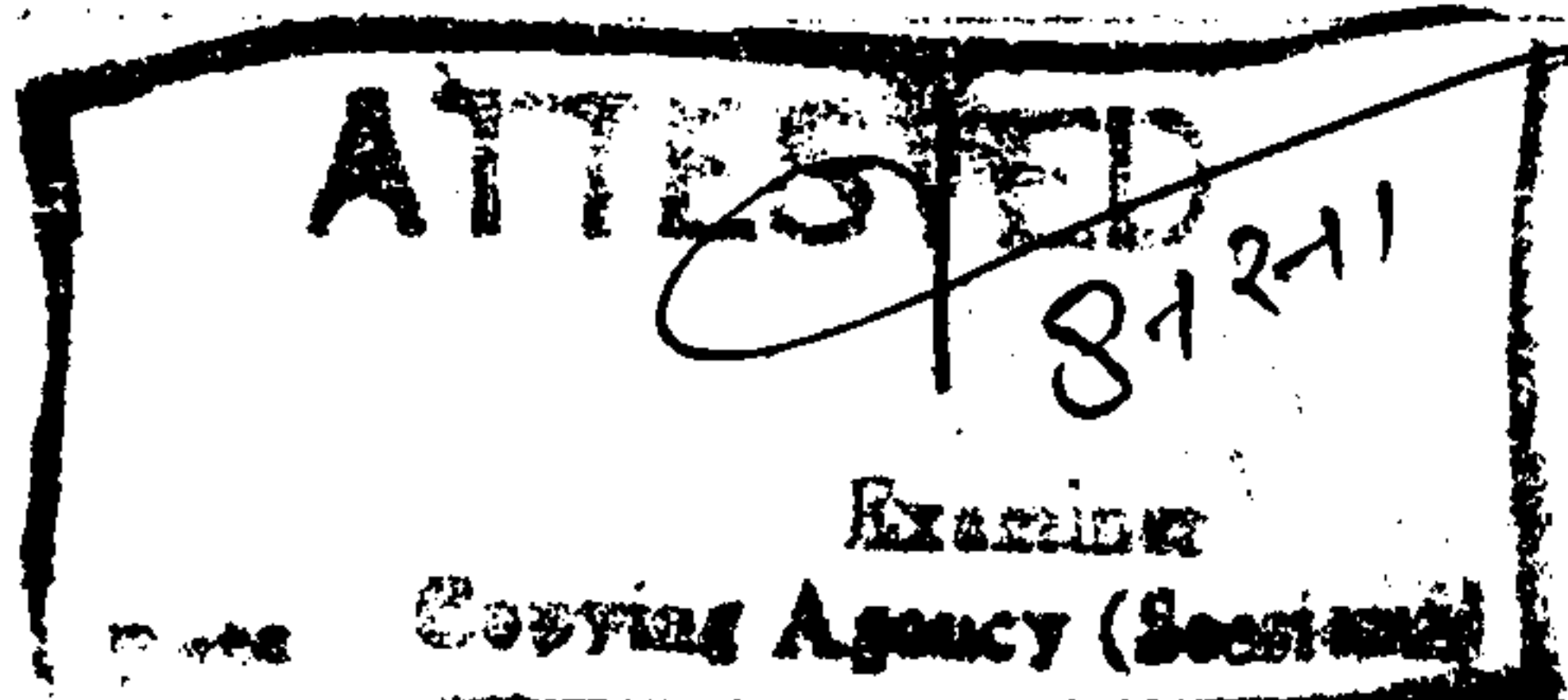
*PD.*

*41/12*

*29*

*71*

*69*





2

Accused No.1; resident of H. No. 1907,  
Sector 22B, Chandigarh.

4. Dr. Nirbhay Kumar, s/o Not known to the  
complainant; Occupation Director of the  
Accused No.1; resident of H. No. 64, Ext. 1,  
Near Lokesh Cinema, Nangoli, Delhi- 41.

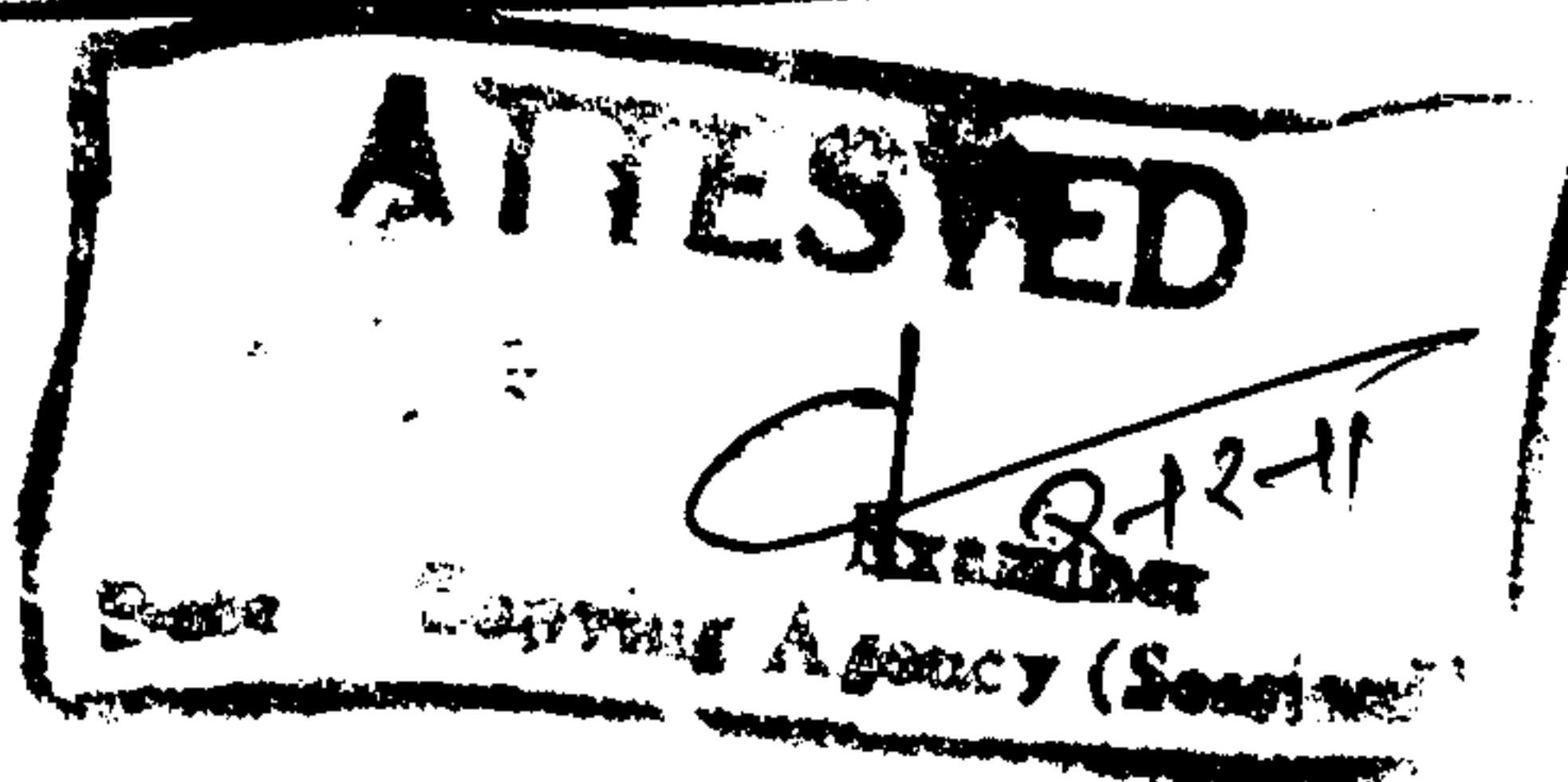
(P.O.)

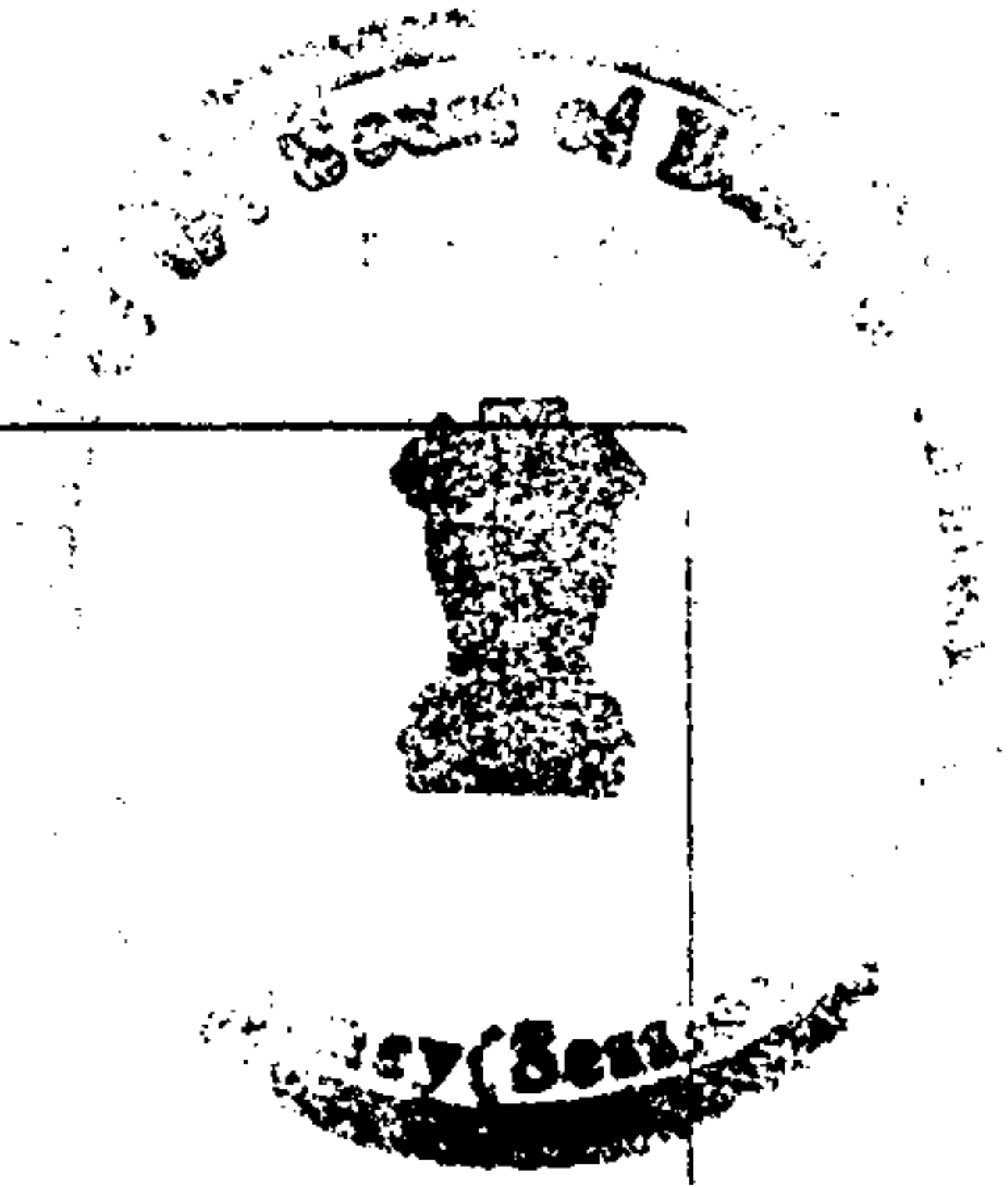
...Accused

**COMPLAINT UNDER SECTION 190 and 200 OF THE CODE OF  
CRIMINAL PROCEDURE, 1973 READ WITH SEC. 24(1) AND  
27 OF SECURITIES AND EXCHANGE BOARD OF INDIA ACT,**

**1992**

It may please Your Honour:





CC No. 24/10

Item no. 7

3.12.2011

**Present: Sh. Sanjay Mann, Advocate, Counsel for SEBI**  
**Accused no. 2 & 4 are proclaimed offenders vide order dated 23.8.07 & 9.5.2007 respectively**  
**Convict no.1 is company but represented by none**  
**Convict no.2 is in person with counsel Sh. Mukesh Kalia, Advocate**

Vide separate order on the point of sentence, a fine of Rs. 6 lac is imposed upon each of convicts i.e convict No.1 Jai Mata Di Agro Plantation Ltd. and convict no.2 Smt. Sangeeta in default convict no. 2 shall undergo three months simple imprisonment for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

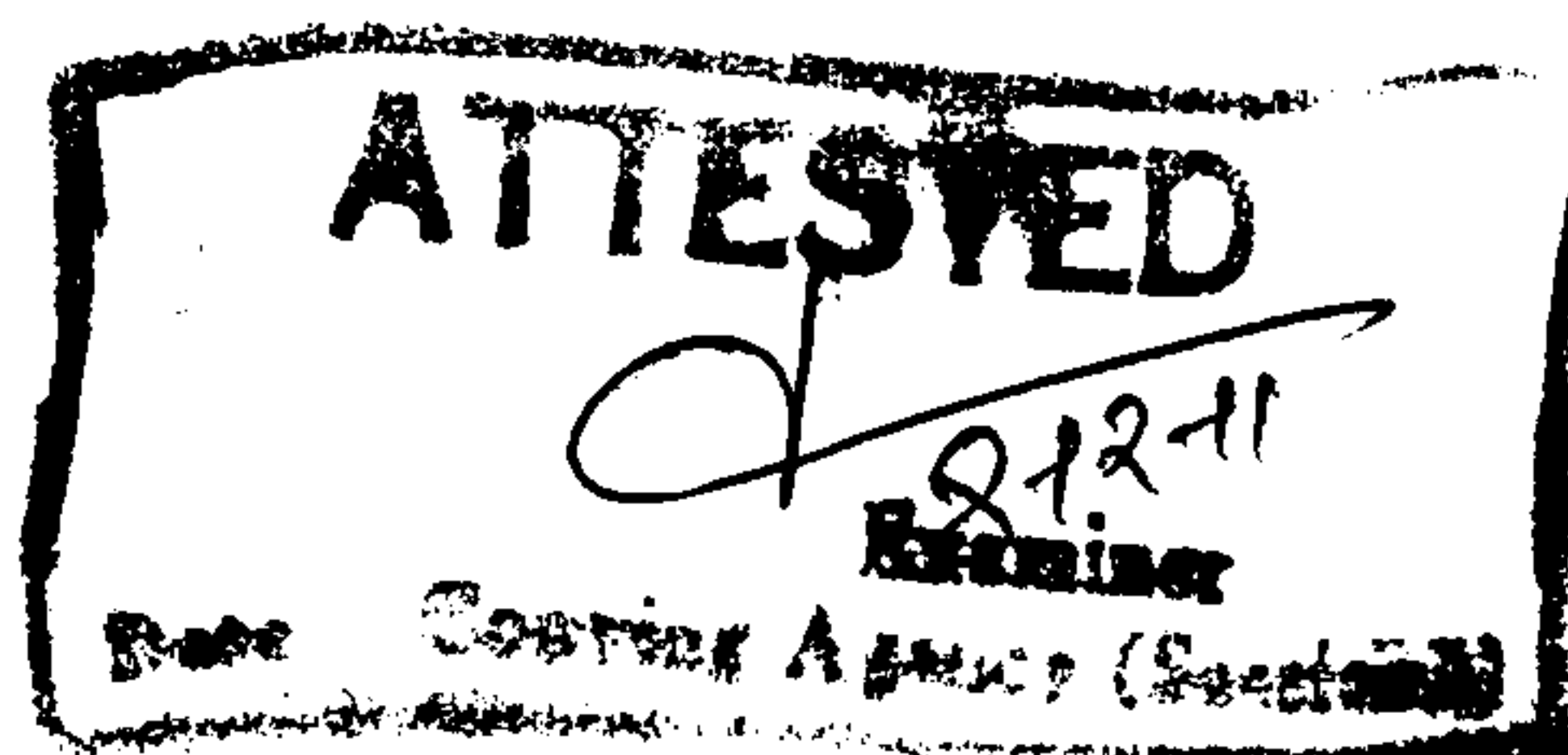
Under Section 357 of the Code of Criminal Procedure, a compensation is awarded to the investors who had invested their hard money in the company accused. SEBI is directed to issue public notice through print media and other modes to find out the investors. After verification of documents of investors, SEBI shall submit a report in the Court for realization of the amount to the investors. However, amount of compensation shall be realized to the investors only after the expiry of period of appeal or revision or if any appeal or revision is filed then till the decision of such appeal or revision.

Fine amount is paid.

Copy of judgment alongwith order on the point of sentence be given to the convict/her counsel free of cost.

Counsel for SEBI states that after collecting the information about the assets of convict no1. (company accused), he shall move an

*2/12/11*



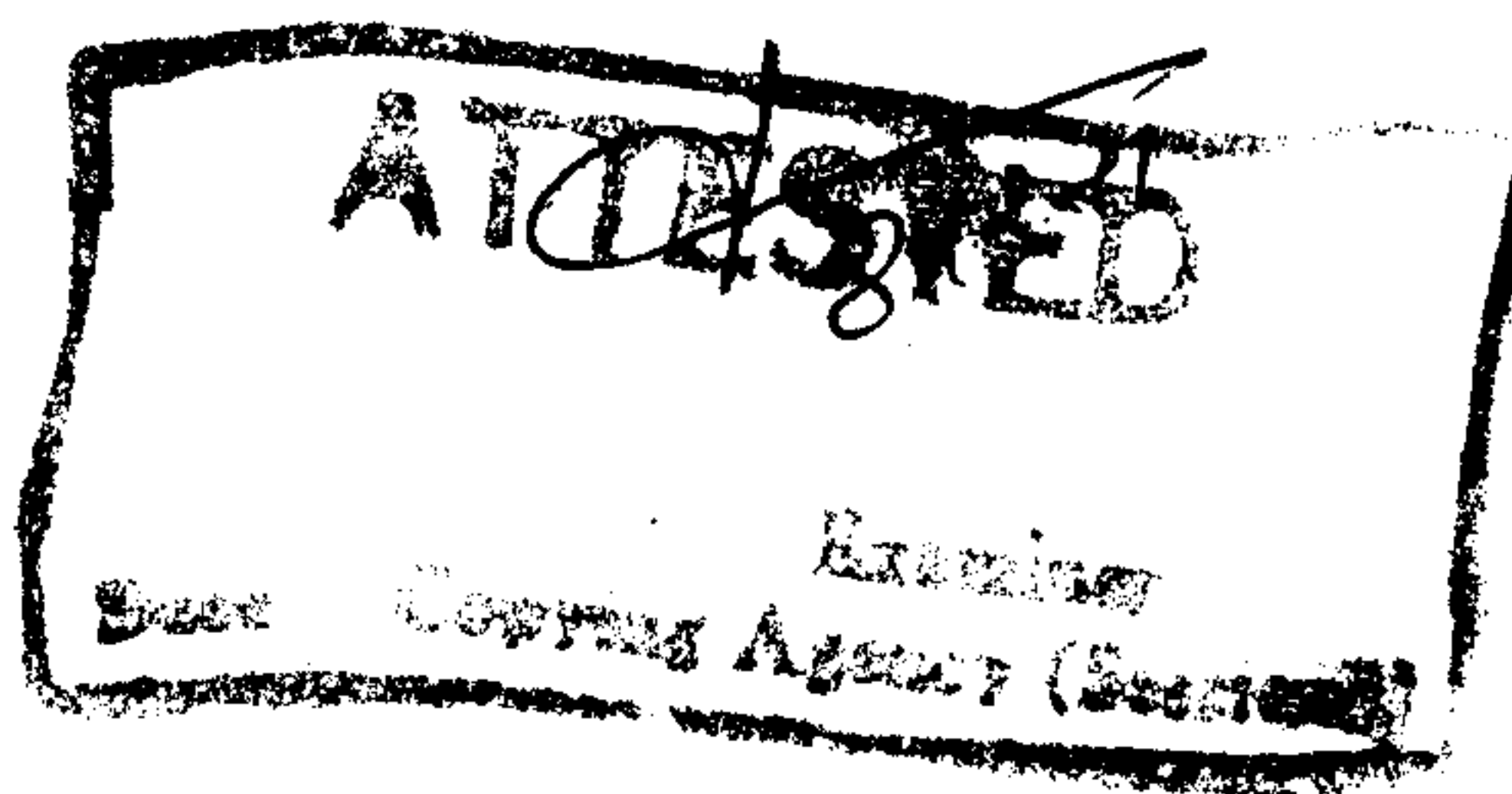




appropriate application for realization of fine amount.

Since A2 and A4 are proclaimed offenders, file be consigned to record room with direction that same be revived as and when A2 and A4 arrested.

  
(PAWAN KUMAR JAIN)  
Additional Sessions Judge-01,  
Central/THC/Delhi





SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

**IN THE COURT OF SH. PAWAN KUMAR JAIN,  
ADDL. SESSIONS JUDGE-01(CENTRAL):DELHI**

**Complaint Case No. 24 of 2010  
ID No: 02401R0201452002**

**SECURITIES AND EXCHANGE BOARD OF INDIA**, a statutory body established under the provisions of Securities and Exchange Board of India Act, 1992, having its Head office at Mittal Court, B-Wing, 224 Nariman Point, Mumbai 400 021 represented by its Legal Officer, Sh. Manish Vashit, Asstt. General Manager SEBI.

**Versus**

1. **JAI MATA DI AGRO PLANTATION LTD.** a Company incorporated under the Companies Act, 1956, having its Registered office at: SCO 815, NAC, Manimajra, Chandigarh.

.....Accused no.1

2. **Sh. Deependranath**  
S/o Not known to the complainant  
Occupation Director of Accused no.1  
R/o H. No. 589, Sector 9,  
Panchkula, Haryana

.....Accused no.2

3. **Smt. Sangeeta**  
W/o Sh. Sanjay Chopra  
Occupation Director of Accused no.1  
R/o H. No. 1907, Sector 22B,  
Chandigarh

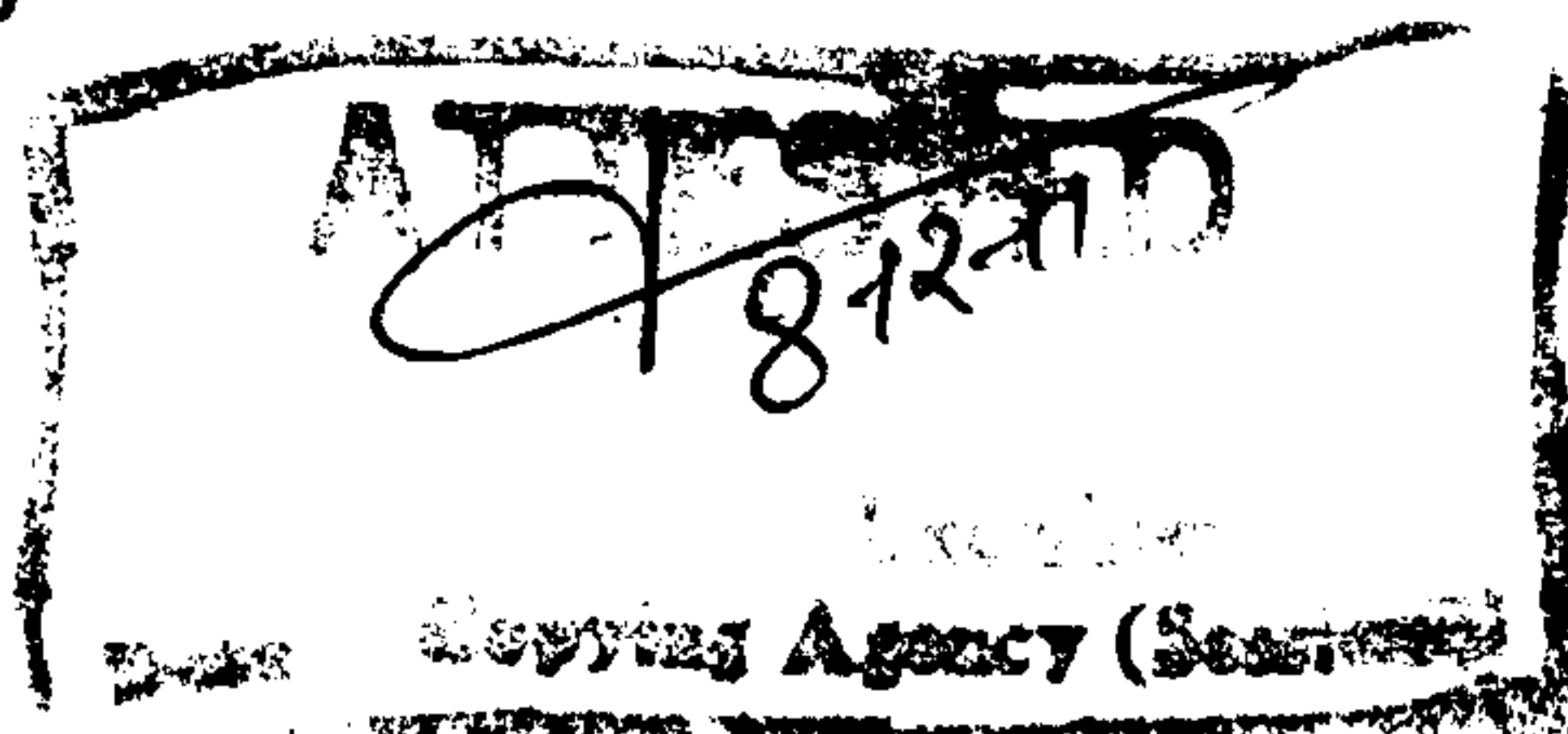
.....Accused no.3

4. **Dr. Nirbhay Kumar**  
S/o Not known to the complainant;

*Handwritten signature*  
29/11/10

CC No. 24/10

Page no. 1 of 14





SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

Occupation Director of Accused no.1  
R/o H. NO. 64, Ext. 1, Near Lokesh Cinema,  
Nagoil, Delhi-41.

.....Accused no.4

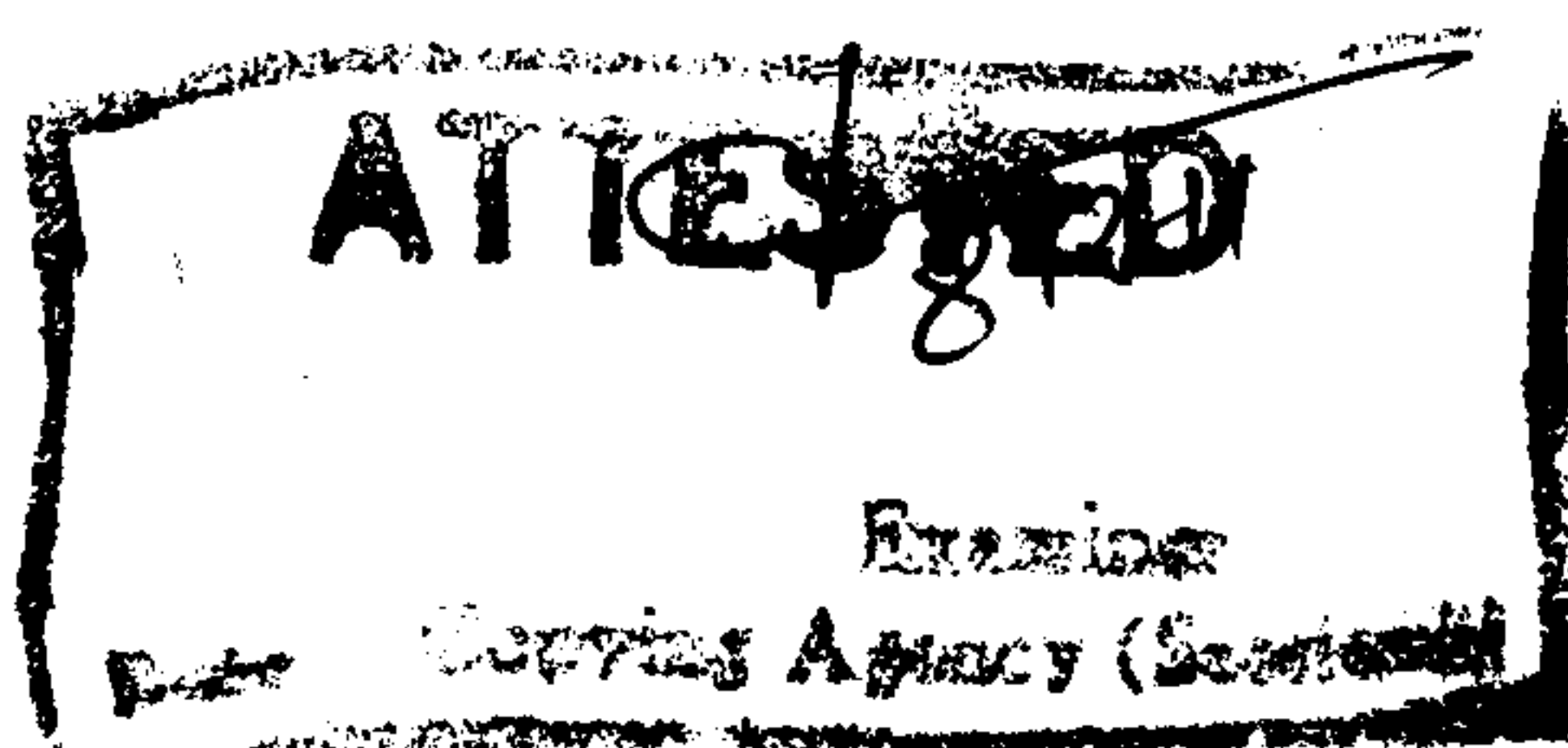
Date of Institution : 21.12.2004  
Date of committal to Session Court : 29.01.2005  
Date of Judgment Reserved on : 18.11.2011  
Date of pronouncement of judgment : 29.11.2011

Present: Sh. Sanjay Mann, Advocate, Counsel for SEBI.  
Sh. Mukesh Kalia, Advocate, Counsel for accused No.3.

## J U D G M E N T :

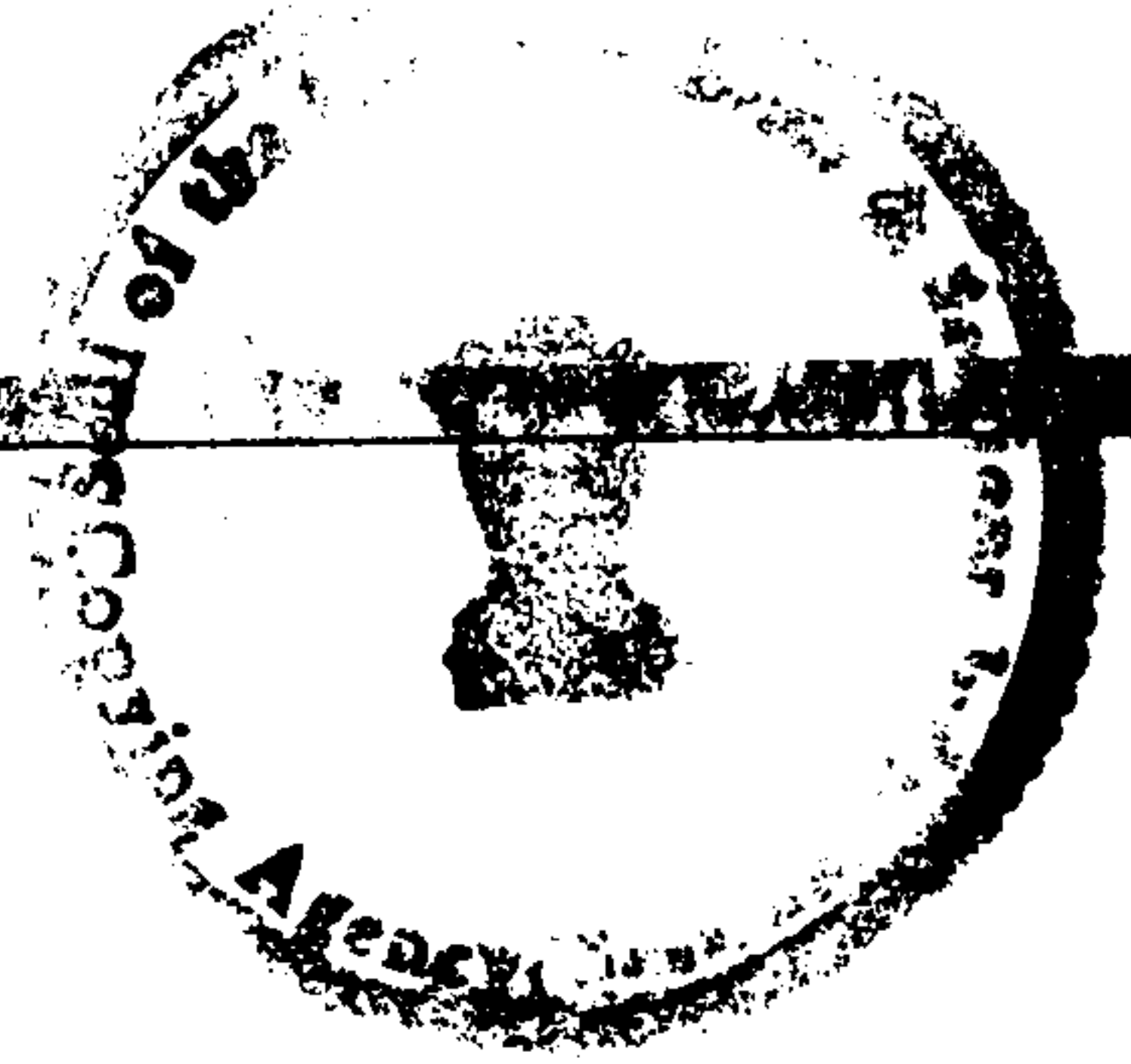
1. This criminal complaint was preferred by the Securities & Exchange Board of India (hereinafter referred to as "SEBI" or "the complainant"), on December 21, 2002 in the Court of Additional Chief Metropolitan Magistrate (ACMM), alleging violation of the provisions of Section 12 (1B) of Securities & Exchange Board of India Act, 1992 (hereinafter, "the SEBI Act") and Regulation Nos. 5(1) read with 68(1), 68(2), 73 and 74 of the Securities & Exchange Board of India (Collective Investment Schemes) Regulations, 1999 (hereinafter referred to as "the CIS Regulations" or "the said Regulations"), constituting offence punishable under Section 24(1) read with Section 27 of the SEBI Act.

CC No. 24/10



Page no. 2 of 14

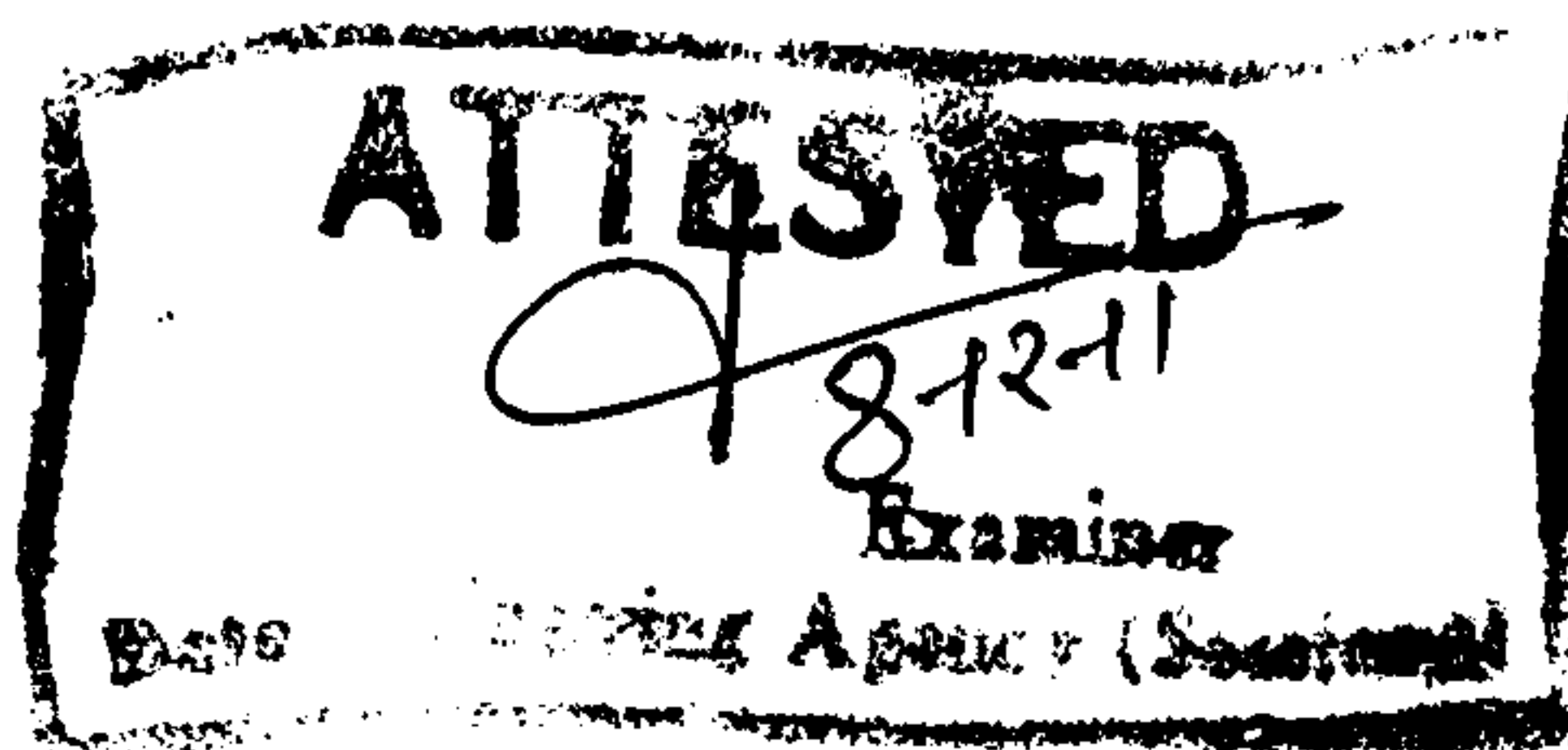




SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

2. Four persons were arrayed as accused in the criminal complaint preferred under Section 200 Cr.P.C., they being Jai Mata Di Agro Plantations Ltd. ("A1"), accused No. 2 Sh. Deependranath ("A2"), accused No. 3 Smt. Sangeeta ("A3") and accused No. 4 Dr. Nirbhay Kumar. It is alleged that A2 to A4 were Directors of the company accused and as such persons were in charge of, and responsible to, A1 for the conduct of its business within the meaning of the provisions contained in Section 27 of the SEBI Act.
3. It is alleged in the complaint that A1 had floated the various Collective Investment Schemes (CIS) and raised approximate amount of ₹ 0.36 Crores from general public, in violation of the provisions contained in Section 12 (1B) of the SEBI Act. It is also alleged that after coming into force of CIS Regulations and in spite of public notice dated December 18, 1997, the accused persons had failed to get the Collective Investment Scheme registered with SEBI or to wind up the said scheme or repay the amount collected from the investors in terms of the CIS Regulations, thus constituting violation of the law and regulations framed thereunder and thereby committing the offence alleged as above.
4. Cognizance on the complaint was taken by the learned ACMM vide order dated December 21, 2002 whereby process were issued under Section 204 Cr.P.C. against all the accused persons.
5. On account of the amendment, particularly in Sections 24 and 26 of the SEBI Act, through Amendment Act which came into force w.e.f. November 24, 2002, pursuant to Administrative Directions of

CC No. 24/10



12/11/11

Page no. 3 of 14

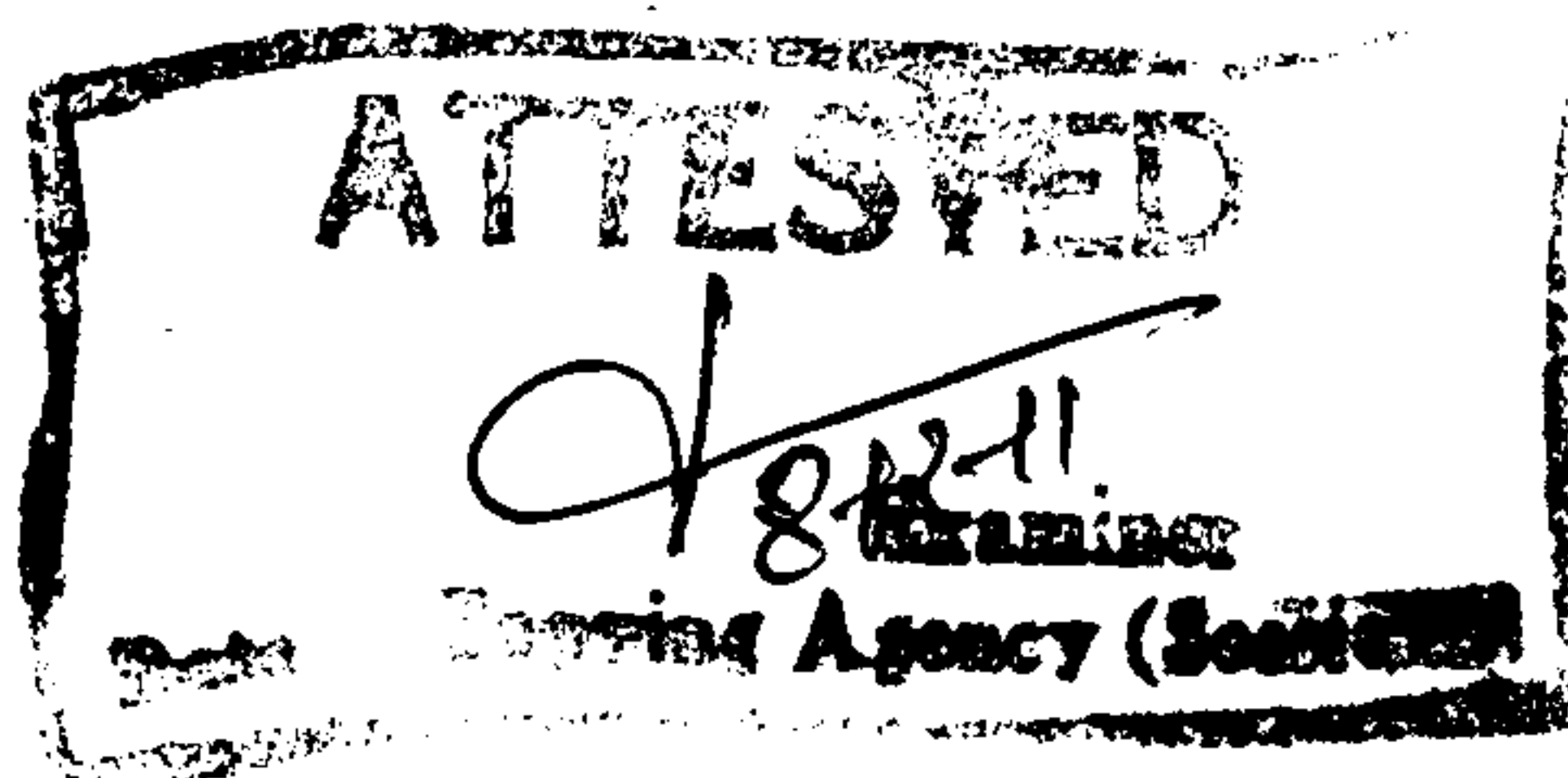


SEBI Vs. Jai Mata Di Agro Products Ltd. & others

Hon'ble High Court, under orders of the Ld. Distt. & Sessions Judge, this case was transferred on January 29, 2005 from the Court of Ld. ACMM to the Court of Sessions, then presided over by Ms. Asha Menon, the then Addl. Sessions Judge, Delhi.

6. Thereafter, vide order dated September 28, 2006, a notice for the offence punishable under Section 24 read with section 27 of the SEBI Act was served upon the A1(company) and A3 wherein A3 pleaded not guilty and claimed trial. During the trial, vide order dated March 29, 2007 and August 23, 2007, A4 & A2 were declared proclaimed offenders on account of their non-appearance.
7. To prove its case, complainant has examined only one witness named Sh. Manish Vashit, Asstt. General Manager SEBI. Thereafter, A3 was examined under Section 313 Cr.P.C. wherein A3 admitted her directorship in the company accused but took the plea that she was only a sleeping director and used to sign as a director at the instance of the other management members and stated that she was only a salaried employee in the company accused. She further submitted that she had resigned from the company accused in March 1998 after meeting with an accident.
8. In order to prove her innocence, A3 has examined Sh. Joginder Singh, official from ROC as DW1 and Sh. Jatin Salwan as DW2.
9. I have heard arguments advanced by Sh. Sanjay Mann, Advocate, Counsel for complainant and Sh. Mukesh Kalia, Advocate,

CC No. 24/10



*[Handwritten signature]*  
29/11/11

Page no. 4 of 14





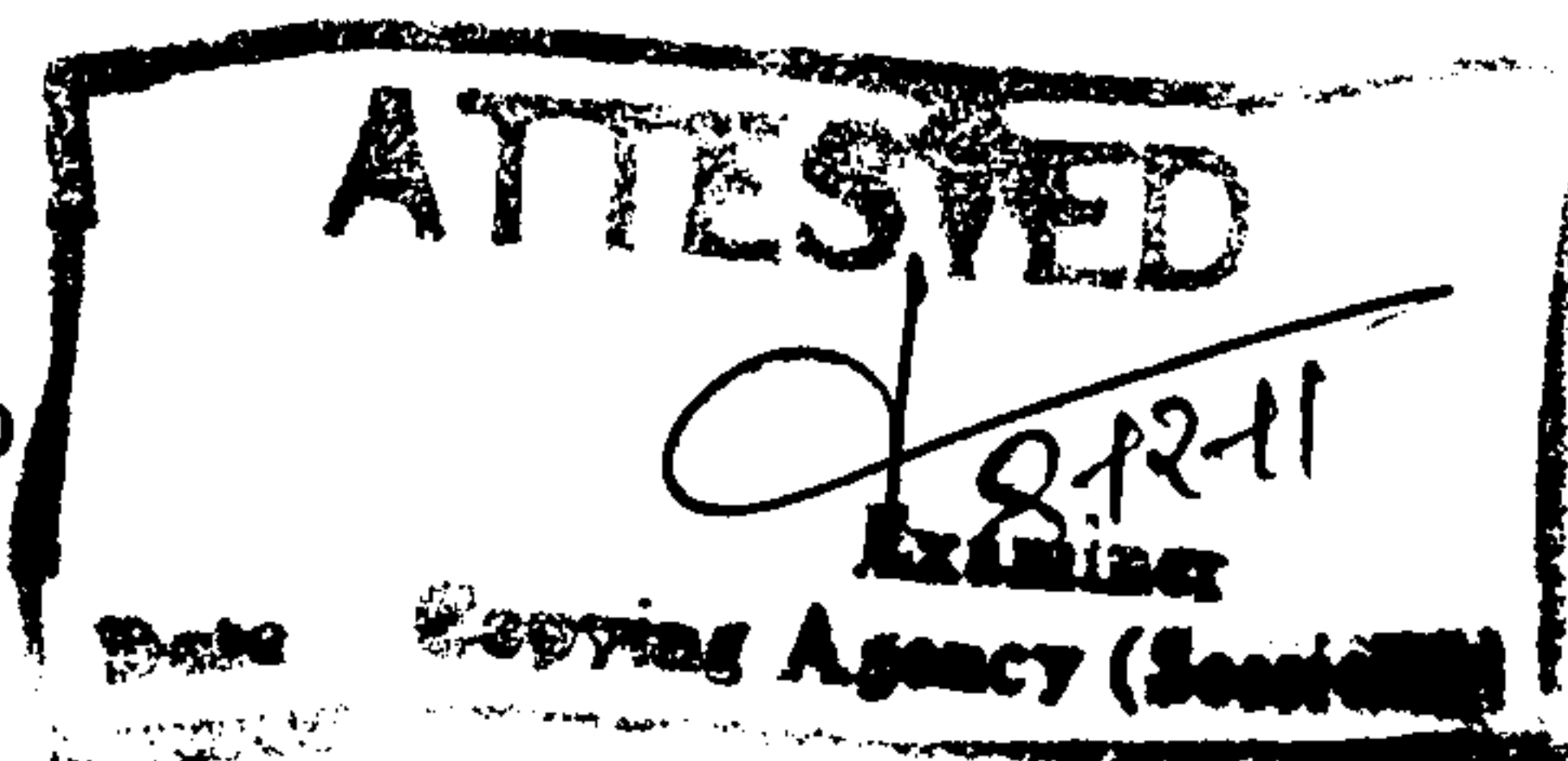
SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

Counsel for A3 and perused the record carefully.

10. Learned counsel appearing for accused vehemently contended that A3 was one of the directors in the company accused till June 15, 1998 but she had resigned from the directorship on June 16, 1998, thus it was contended that A3 was not liable for the acts done by company accused after June 16, 1998. It was further argued that SEBI had granted the time to the company accused to comply with the provisions of CIS Regulations by March 31, 2000. Since company accused failed to comply with the provisions of CIS Regulations within the stipulated period, SEBI had prosecuted the company accused. It was contended that since A3 was not one of the directors on March 31, 2000, thus A3 was not in a position to comply with the directions, thus A3 cannot be held guilty for the violations allegedly committed by the company accused. It was further contended that even no offence was committed by the company accused till March 31, 2000, thus A3 could not be held liable for the acts of company accused. It was further submitted that all the letters were sent only to the company accused and A3 had not received any letter. It has further stated that SEBI had not filed the list of investors, even no investor had filed any complaint with the SEBI against the company accused.

11. Per contra learned counsel appearing for complainant sagaciously contended that company accused was incorporated on February 23, 1995, thus company accused was not supposed to mobilize any fund unless company accused obtained the certificate of

CC No. 24/10



Page no. 5 of 14



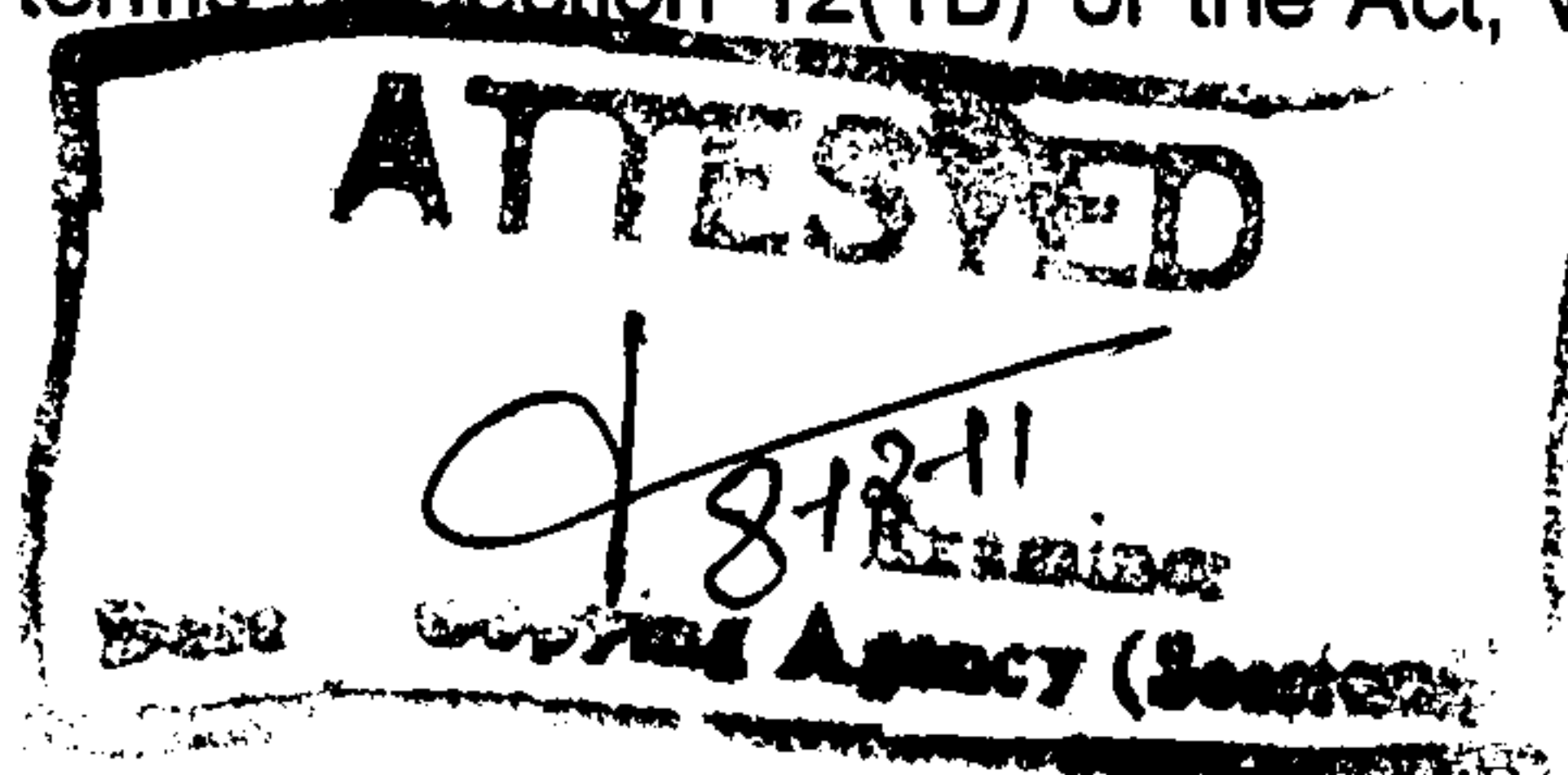
SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

registration from SEBI, it was submitted that it is admitted case of A3 that she was one of the directors when company accused had mobilized funds by floating various Collective Investment Schemes. It was further stated that A3 had signed numerous documents on behalf of company accused which proves that A3 was one of the directors who was incharge of and responsible to the company accused for the conduct of its business.

12. First question arises from the submissions raised by the counsel for the parties as to whether company accused had violated any provisions of the SEBI Act or not.

13. It is undisputed fact that company accused was incorporated on February 23, 1995. Moreover, this fact is proved from the Memorandum and Articles of Associations of the company accused, which is exhibited as Ex. CW1/3. Section 12(1B) was inserted in SEBI Act w.e.f January 25, 1995 by virtue of Amendment Act in 1995. The effect of inserting Section 12(1B) is that after January 25, 1995 no person could sponsor or cause to be sponsored or carry on or caused to be carried on any venture capital funds or collective investment schemes including mutual funds, unless he obtains a certificate of registration from the Board in accordance with the regulations. It means that after January 25, 1995, no person can sponsor or cause to be sponsored or carry on or caused to be carried on any CIS unless he obtains a certificate of registration from the Board in accordance with the regulations. Since in the instant case, company accused was incorporated only on February 23, 1995, company accused, in terms of Section 12(1B) of the Act, was not supposed to

CC No. 24/10



Page no. 6 of 14

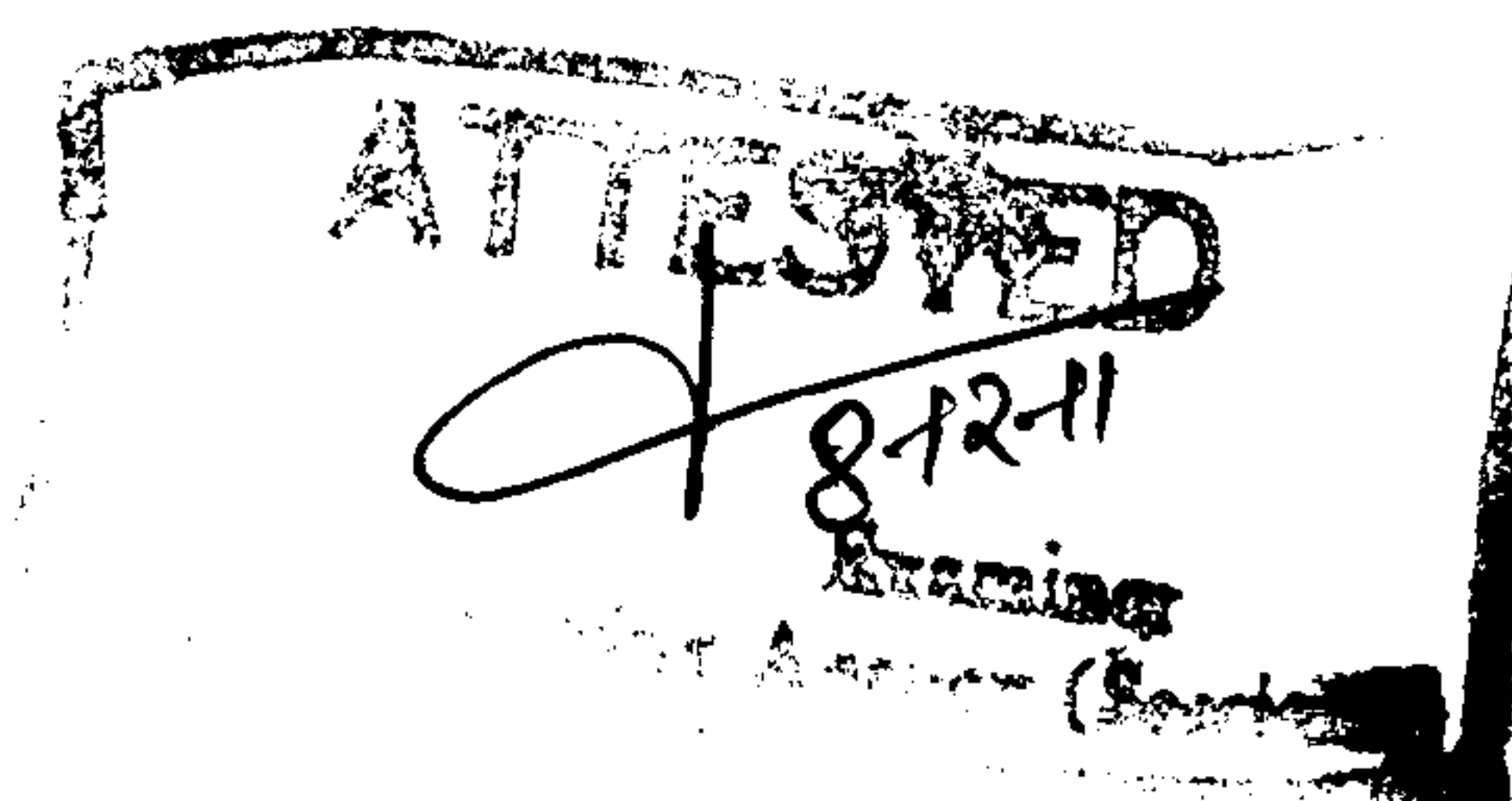


launch CIS unless company accused obtained a certificate of registration from the SEBI. Since company accused had not obtained any such certificate of registration at the time of mobilizing funds by floating various CIS, company accused had violated Section 12(1B) of the Act by at time itself.

14. Under proviso to Section 12(1B) of SEBI Act, relaxation has been provided to certain schemes from obtaining registration of certificate from SEBI provided such Collective Investment Schemes must be in operation immediately before the insertion of Section 12(1B) in the SEBI Act, till the time regulations were notified. In other words, if any Collective Investment Scheme was in operation just before January 25, 1995, such CIS were permitted to continue to operate till such time regulations were made by the SEBI. Thus, this relaxation was available only to those schemes which were in operation prior to January 25, 1995, when Section 12(1B) of Act was inserted. Since in the instant case, company accused was incorporated only on February 23, 1995, company accused was not entitled for the relaxation as provided under proviso to Section 12(1B) of the Act.

15. Similar view was taken by Allahabad High Court in case **Paramount Bio-Tech Industries Limited Vs. Union of India** reported in 2003 INDLAW All 168, wherein it was held in para 80:-

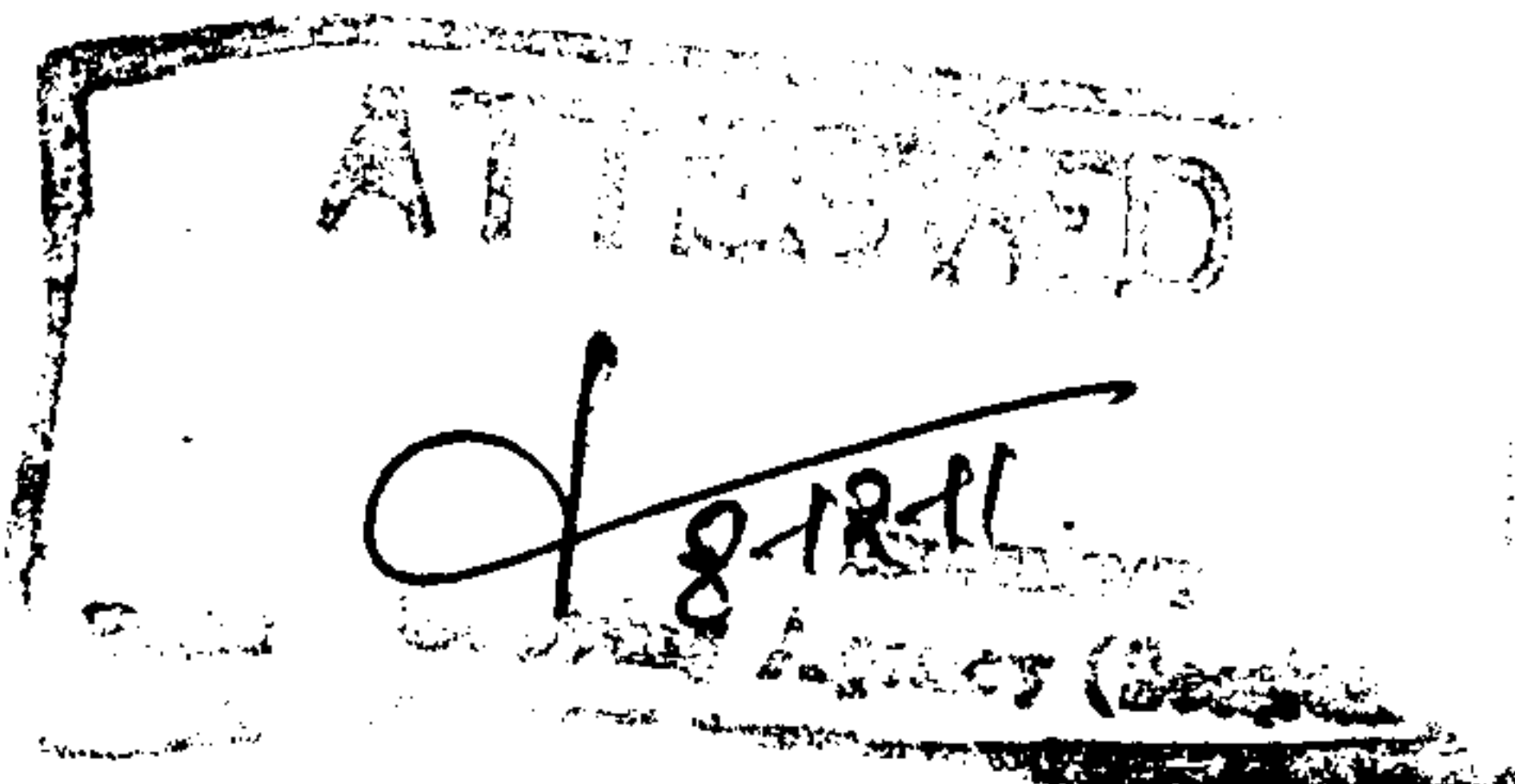
*"It is true that there were no Regulations upto 1999 and, hence, certificate could not be granted under Section 12(1B). However, the proviso to Section*





12(1B) permitted only those persons who were carrying on the business of collective investment scheme prior to the 1995 amendment (which came into force with effect from 25 January, 1995) to continue to operate till Regulations were framed. Petitioner No.1 was incorporated in 1996 (vide paragraph 7 to the writ petition) and, hence, it was obviously not carrying on the said business before 25 January 1995. Hence, it could not get the benefit of the proviso to Section 12(1B). It follows that the business of collective investment scheme, which it was doing, was wholly illegal. The letter of the SEBI to the petitioner dated 27 February, 1998 (vide Annexure 4 to the writ petition) was thus indulgent to the petitioner. In fact, by that letter, the SEBI took a lenient view by permitting the petitioner to operate after getting rating from a credit agency. In fact, even this concession could not have been granted by the SEBI, as the proviso to section 12(1B) does not apply to the petitioner, for the reasons given above. The SEBI should in fact have totally prohibited the petitioner from doing the business of collective investment scheme and should have directed prosecution of the petitioner and its officials under Section 24 read with section 27 of the SEBI Act".

16. Thus, it becomes crystal clear that after insertion of Section 12(1B) in the Act, company accused was not entitled to mobilize funds without obtaining a certificate of registration from the board in accordance with regulations, but in the instant case, company accused had mobilized funds in the year 1995 to 1997 without obtaining the certificate of registration which is in violation of Section 12 (1B) of the Act. Since, funds were mobilized after 1995, company accused was not entitled for the relaxation as provided under the proviso to Section 12 (1B) of the Act.

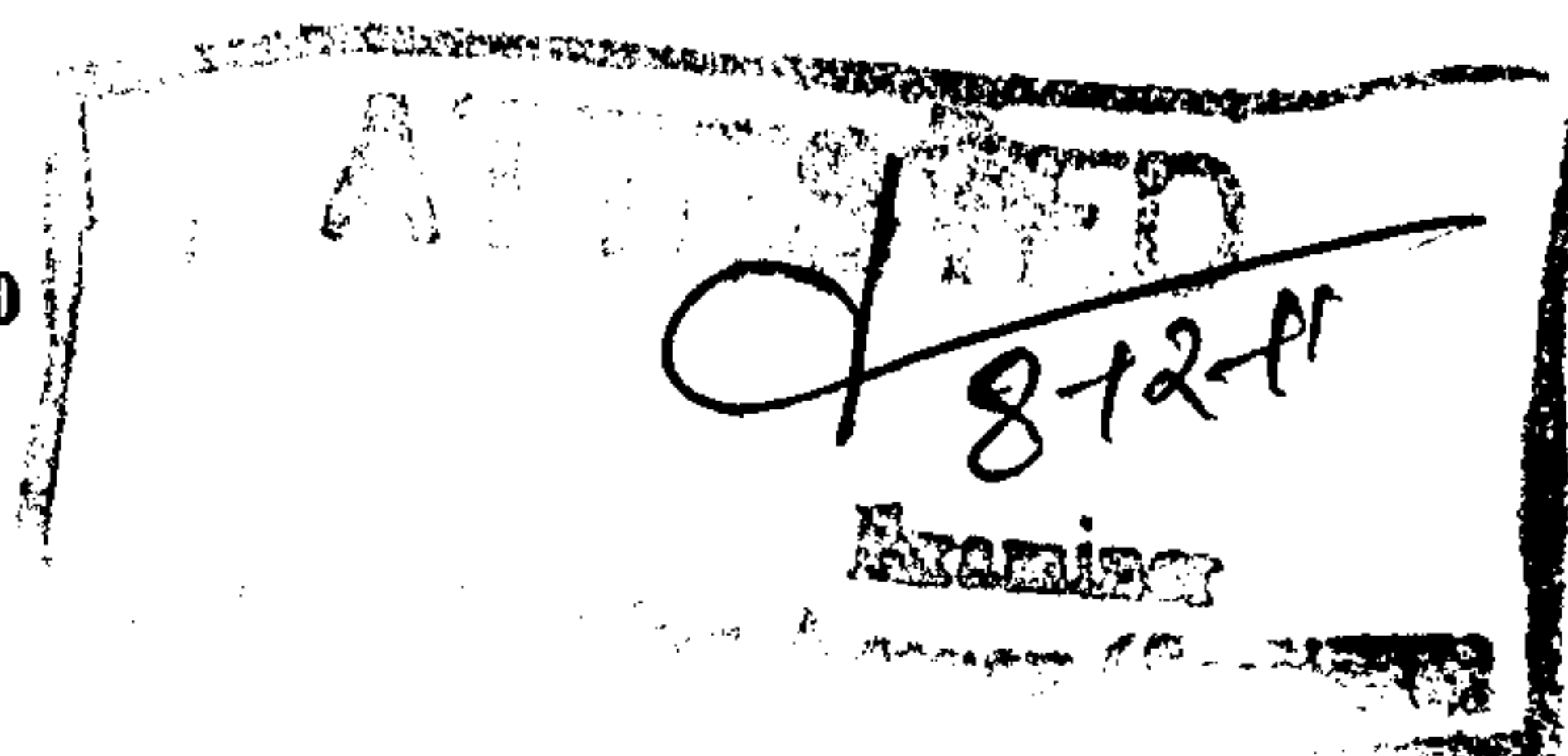




SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

17. It is undisputed fact that company accused had mobilized funds to the tune of ₹ 36,16,055/-. This fact is admitted by the company accused in its letter Ex. CW1/2 which also bears the signature of A3.
18. Again this fact was admitted by company accused in its letter Ex. CW1/3. Company accused had sent its balance sheet as on March 31, 1997. The said balance sheet also bears the signature of A3. As per the balance sheet, company accused had collected amount from general public to the tune of ₹ 36,16,055/-
19. Again this fact was admitted by company accused in the statement of deployment of funds mobilized under various schemes, which was sent by company accused to the SEBI through its letter Ex. CW1/3. Thus, it is proved that company accused had mobilized funds to the tune of ₹ 36,16,055/- till March 31, 1997. Since, company accused had mobilized funds without obtaining certificate of registration, company accused had violated Section 12(1B) of Act which is punishable under Section 24 of SEBI Act.
20. It is also undisputed fact that CIS regulations were notified on October 15, 1999. As per Regulation 5(1), any person who was immediately prior to the commencement of these Regulations operating any scheme, shall make an application to the Board for the grant of certificate within two months from the date of regulations. Admittedly, company accused had not made an application in accordance with regulation 5 of the CIS Regulation. According to

CC No. 24/10



Page no. 9 of 14



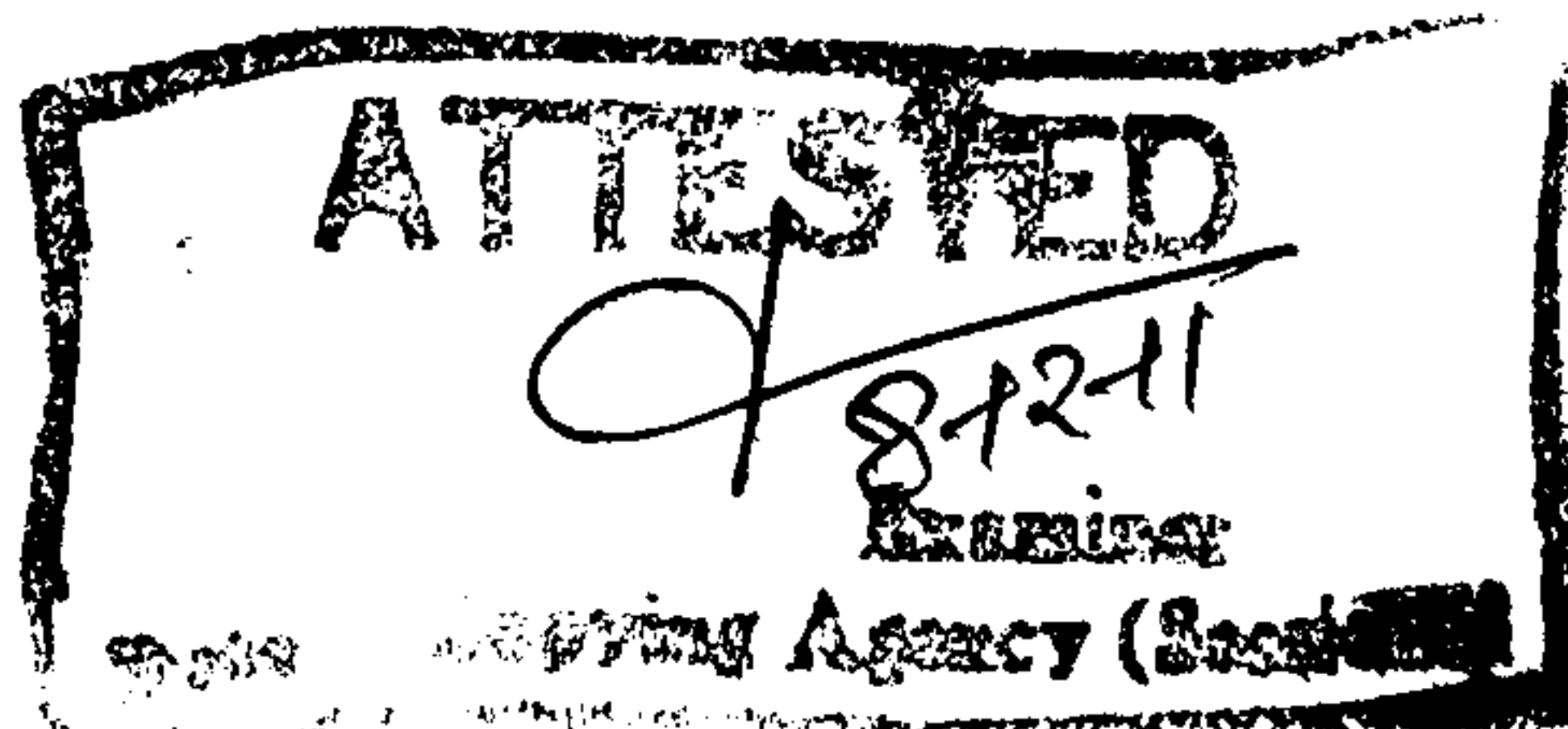
Regulation 73, if the company failed to make any such application, company shall wind up the existing scheme and send the information to the SEBI relating to the scheme and the amount repayable to each investors and the manner in which amount is determined and was returned to the investors and shall also file winding up and repayment report with the SEBI on the prescribed format.

21. **Admittedly**, company accused had not moved an application for obtaining the certificate of registration for the scheme launched by the company accused during the period 1995-97. Since, company accused failed to move an application in terms of Regulation 5 of the CIS regulations, company accused was bound to submit the WRR to the SEBI in terms of regulations 73 of CIS Regulations but admittedly, company accused had not filed such WRR with the SEBI. Thus, company accused has also violated the provisions of CIS Regulations which is again punishable under Section 24 (1) of the SEBI Act.

22. Now question arises as to whether A3 is liable for the violations committed by company accused or not.

23. **Learned** counsel strenuously contended that since A3 had resigned from the directorship on June 16, 1998, A3 could not be held liable for the acts committed by company accused. No doubt, once A3 had submitted her resignation, she could not be held liable for the acts committed by company accused after the date of her resignation. But A3 shall certainly be liable for the violations committed by the company accused prior to June 16, 1998. As already discussed that

CC No. 24/10

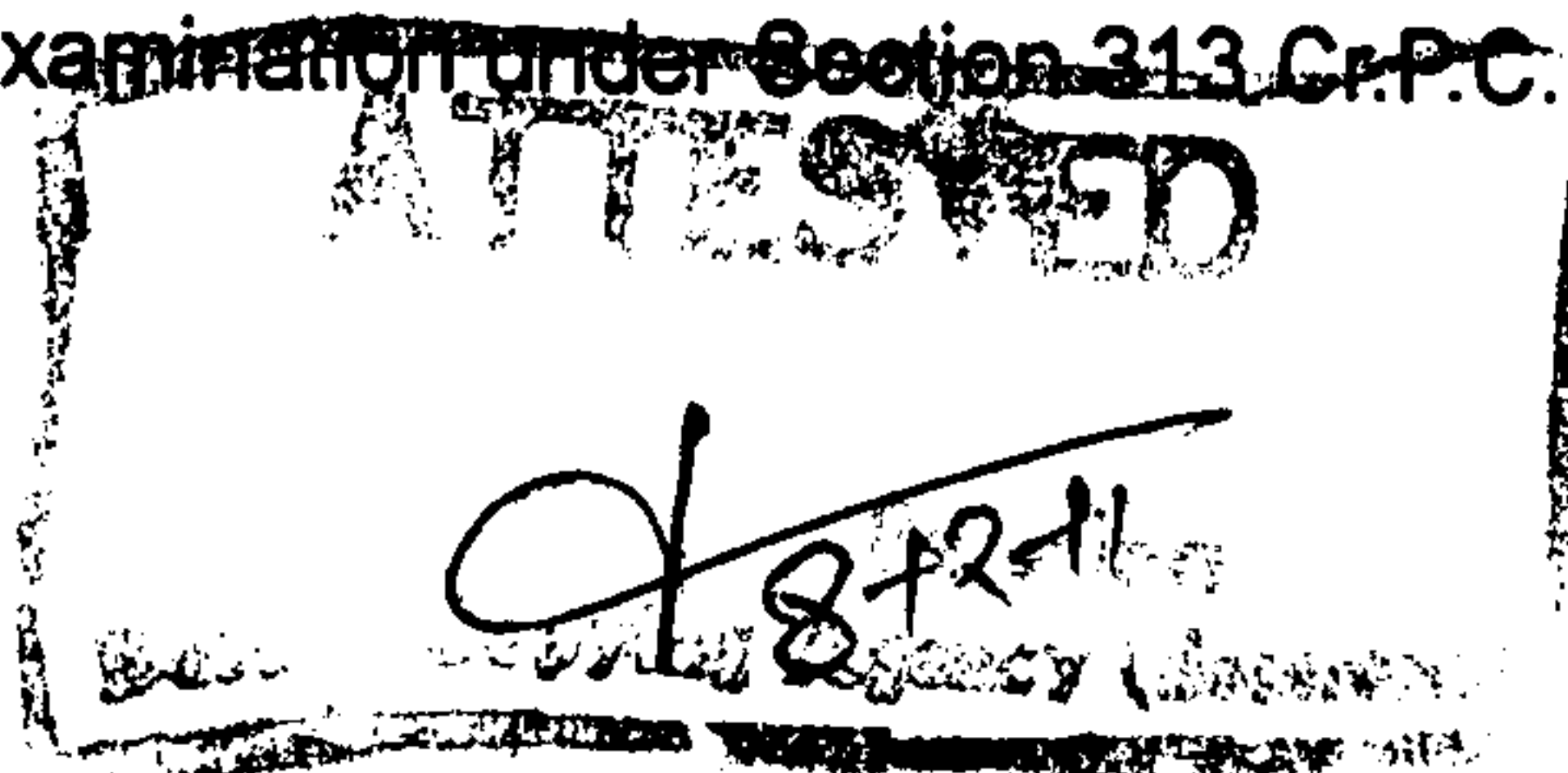


Page no. 10 of 14



company accused had mobilized funds in violation of the provisions of SEBI Act till March 31, 1997 and at that time, A3 was one of the active directors of the company accused. Thus, it cannot be said that A3 shall not be liable for the violations committed by the company accused in the year 1997. Though, it is not disputed that A3 was not the incharge of, and responsible to, the company accused for the conduct of its business at the time of mobilizing funds, yet from the documents proved on record establishes that A3 was incharge of, and responsible to, the company accused for the conduct of its business. As A3 had signed the letter Ex. CW1/2 on behalf of company accused and also signed the balance sheet of company accused, which were sent to SEBI, this proves that A3 was one of the persons who was incharge of, and responsible to, the company accused for the conduct of its business. Thus, A3 was liable for the violations committed by company accused during the period 1995-1997 at the time of mobilizing the funds in violation of Section 12(1B) of the Act.

24. Though in the statement recorded under Section 313 Cr.P.C., A3 took the plea that she was only the sleeping director in the company accused and had signed the papers at the instance of other members of the Management, yet during the trial, A3 failed to produce any evidence in this regard. Even during the course of arguments, learned defence counsel did not press this plea. On the contrary, from the documents available on record as discussed above, it is established that she was one of the directors who was incharge of, and responsible to the company accused for the conduct of its business. Thus, I do not find any substance in the plea taken by A3 during her examination under Section 313 Cr.P.C.

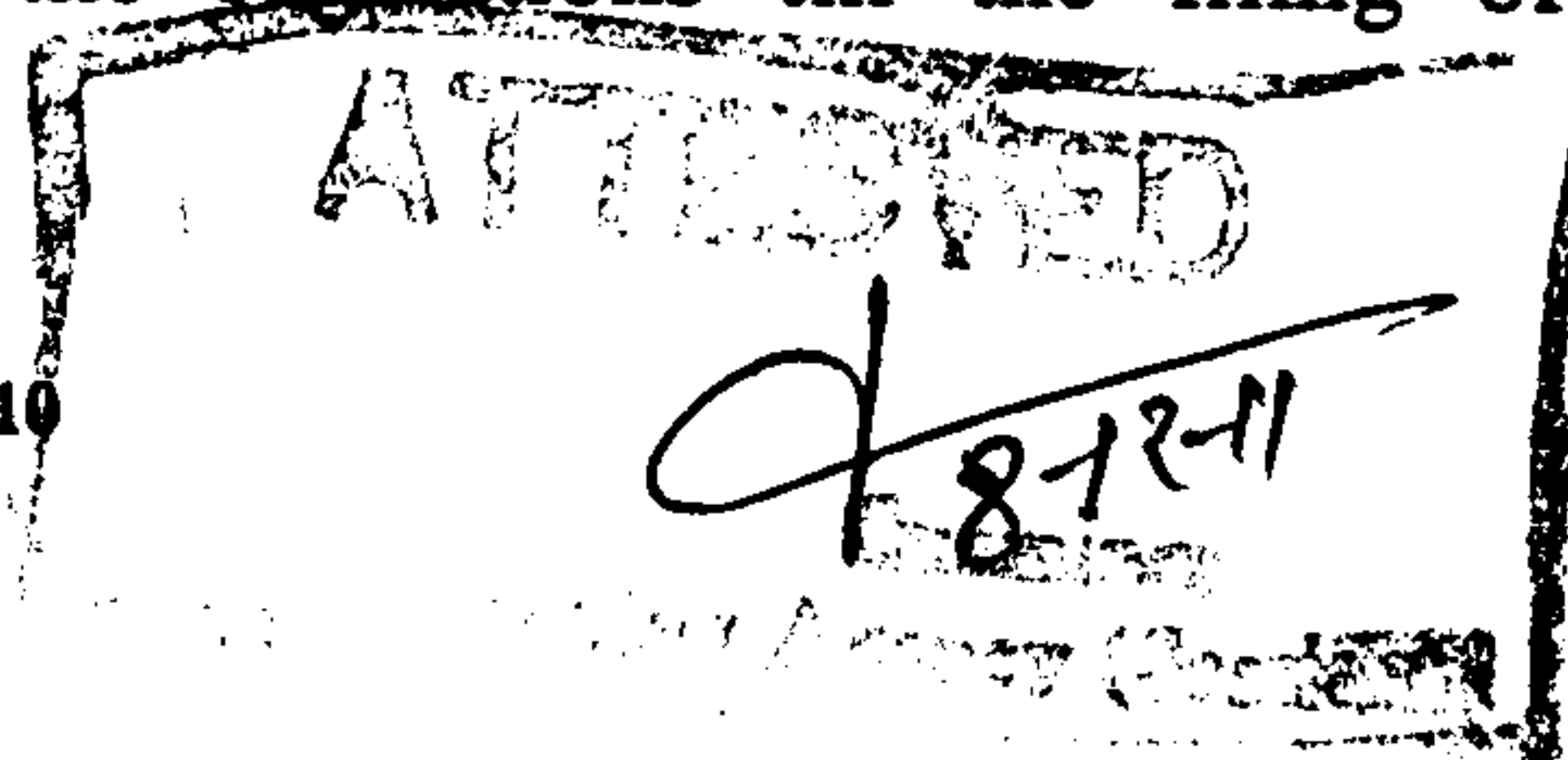


25. Now question may arise, since the violations were committed during the period 1995-1997 whereas complaint was filed in the year 2002, whether in such circumstances, the criminal complaint is not barred by the period of limitation.

26. Section 472 of the Code of Criminal Procedure runs as under:-

*Continuing offence- In the case of a continuing offence, a fresh period of limitation shall begin to run at every moment of the time during which the offence continues.*

According to the Section 472 of the Code of Criminal Procedure, if offence is continuing in nature, fresh period of limitation shall begin to run at every moment of the time during which the offence continues. In the instant case, company accused had violated Section 12 (1B) of the SEBI Act as it launched the CIS without obtaining the registration from the SEBI and when CIS regulations were notified in October 1999, company accused failed to apply for registration in terms of regulation 5 and if company failed to apply for registration or the registration is declined, as per regulation 73, company accused was liable to refund the amount to the investors and to submit the winding up and repayment report with the SEBI. But company failed to comply with the CIS regulations. Since company failed to comply with the regulations till the filing of present complaint, the







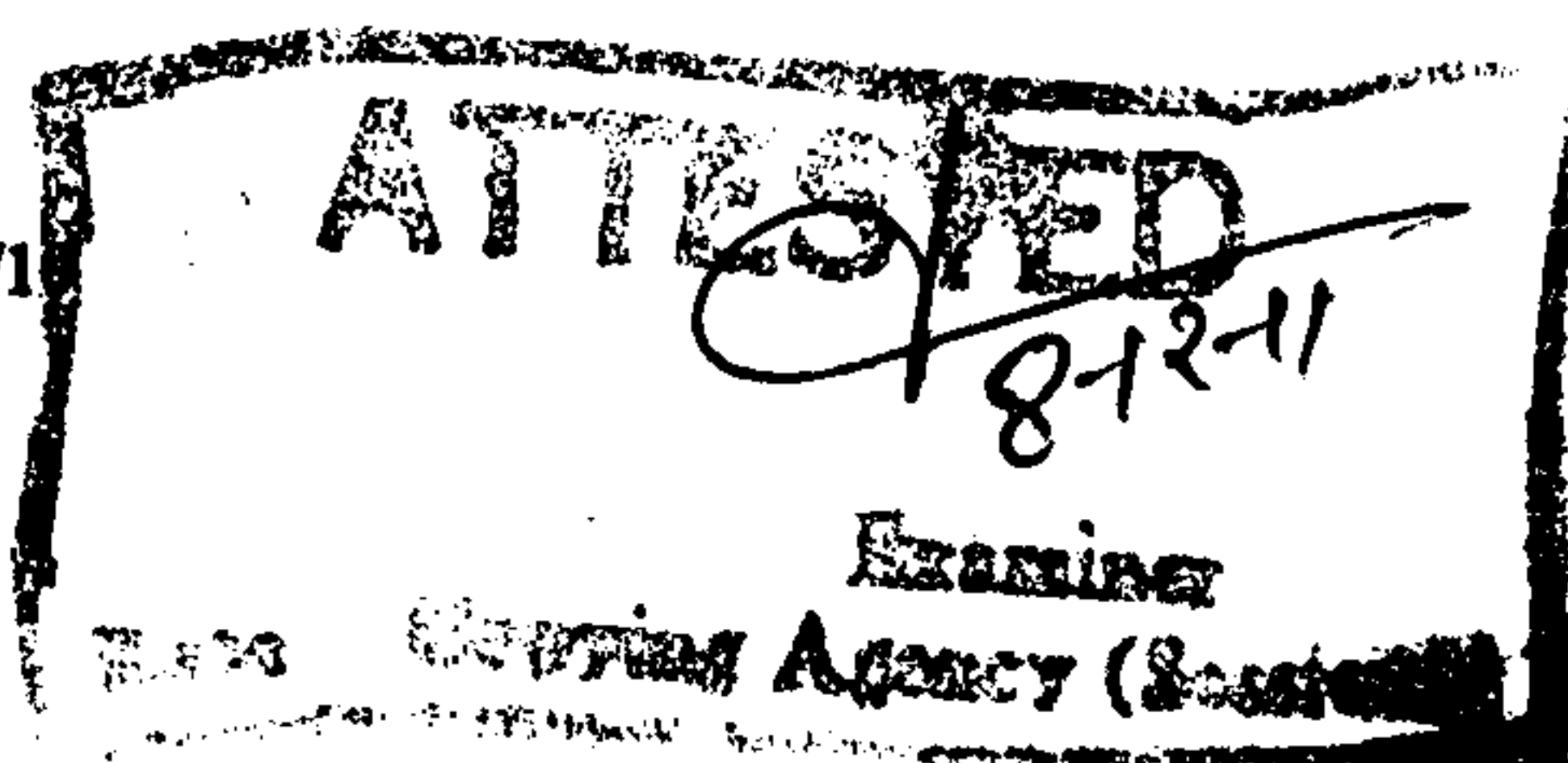
SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

violations are continuing in nature, hence the limitation period provided under Section 468 Cr.P.C is not applicable in the present matter and complainant is entitled for the benefit of provision of Section 472 of the Code of Criminal Procedure. Same view was taken by the *Hon'ble High Court of Delhi in case Vishnu Prakash Bajpai Vs. SEBI, in CR. MC. 1182/2009 decided on 10.02.2010.*

27. At last learned defence counsel contended that no vicarious liability can be imposed upon A3 as SEBI had failed to send any letter to A3. It was urged that SEBI had addressed all the letters to the company accused. Learned counsel for complainant countered the said contention by arguing that though there was no legal requirement that SEBI should send letters to the individual directors, yet SEBI had given notice to all the concerned through public notice despite that A3 failed to take any step. Perusal of record reveals that SEBI had sent the letters to the company accused from time to time which were not responded by the company accused. From the testimony of CW1 it is also established that SEBI had also informed the public at large including all the concerned through various public notices. Moreover, the compliance of provisions of Section 12(1B) of the Act and provisions of CIS Regulations are statutory and mandatory in nature, thus it was the duty of the company and the persons who

*28/11/11*

CC No. 24/11



Page no. 13 of 14





SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

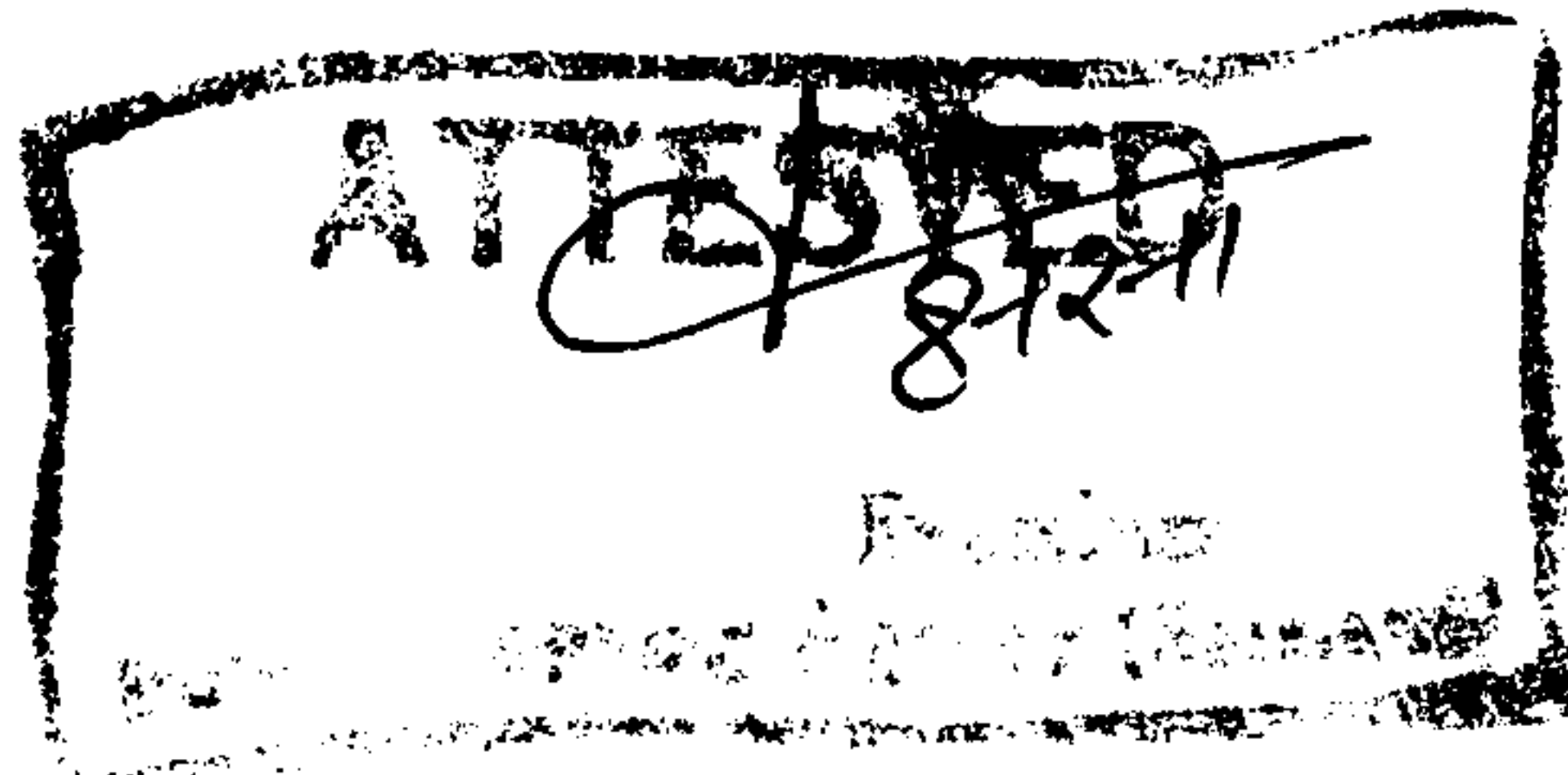
were incharge of, and responsible, to the company for the conduct of its business, to comply with the statutory provisions of law. Thus, I do not find any substances in this contention.

28. Pondering over the ongoing discussion, I am of the considered opinion that complainant has succeeded to establish beyond the shadow of all reasonable doubts that company accused had mobilized funds through CIS in violation of Section 12(1B) of the SEBI Act and also violated regulation no. 5 & 73 of CIS Regulations. Complainant has also established that A3 being the director of company accused was in charge of, and responsible to, the company accused for the conduct of its business at the time of mobilizing funds, thus is also liable for the said violations in terms of Section 27 of the Act. Thus, I hereby hold A1 i.e. Jai Mata Di Agro Plantation Ltd. and A3 Smt. Sangeeta guilty for the offence punishable under Section 24 (1) read with section 27 of the SEBI Act.

Announced in the open Court.  
On this 29<sup>th</sup> day of November 2011

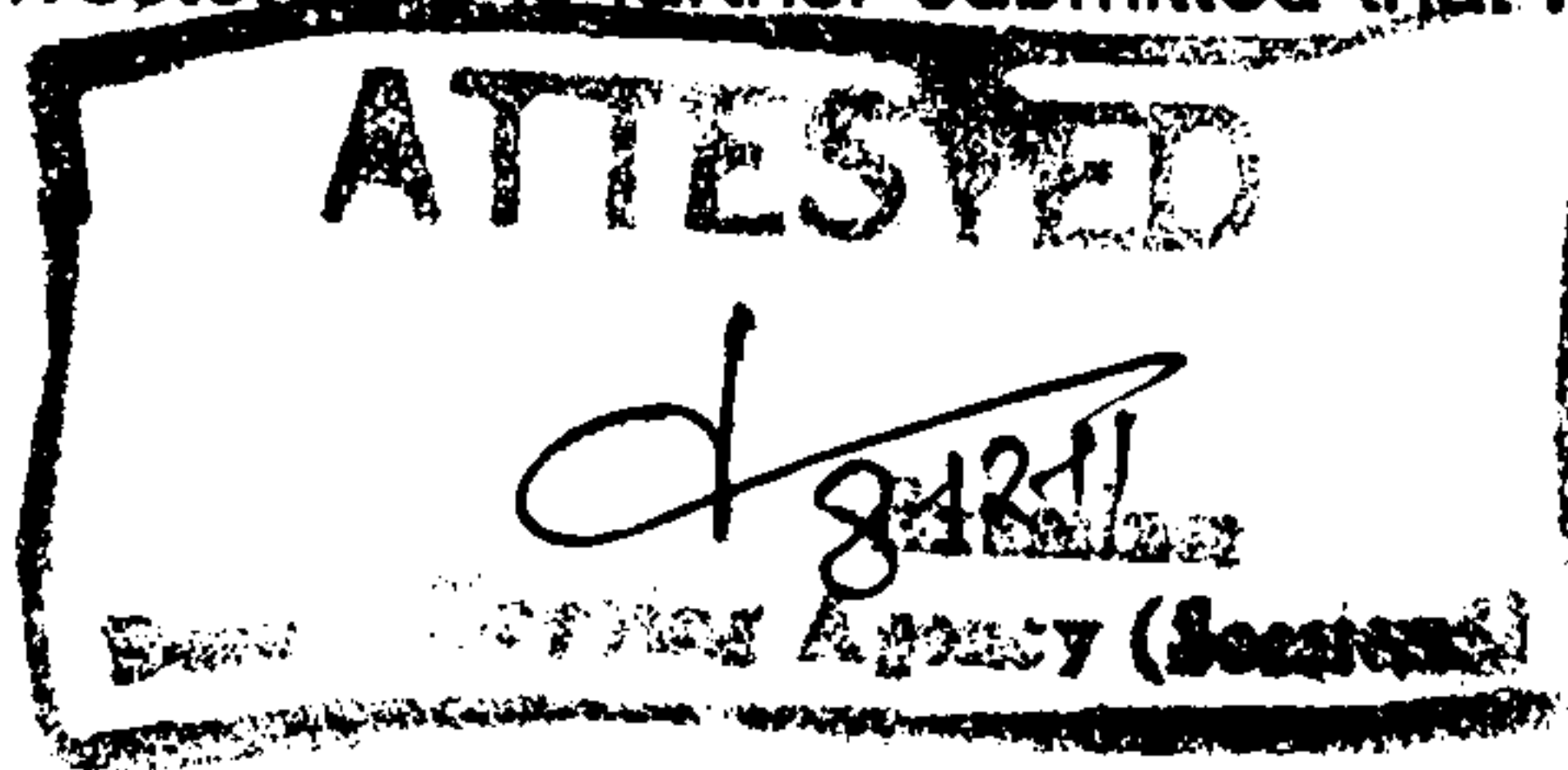
(PAWAN KUMAR JAIN)  
Additional Sessions Judge-01,  
Central/THC/Delhi

Copy given to correct in  
the Court at Sec on  
03/12/11  
Sangeeta  
03/12/11



**ORDER ON THE POINT OF SENTENCE (ORAL):**

1. Vide separate judgment dated November 29, 2011, A1 i.e. Company accused Jai Mata Di Agro Plantation Ltd. and A3 Smt. Sangeeta have been held guilty for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.
2. Learned counsel appearing for convict no.2 requests for a lenient view on the ground that convict no.2 is a female and presently not working anywhere and having two school going children. It is submitted that convict no.2 has no criminal antecedents. It is further submitted that since convict no.2 had resigned from the company accused (convict no.1) in the year 1998, she was not in a position to bring on record that company accused had refunded the mobilized amount to the investors. It is further submitted that no investor had made any complaint with the SEBI to the effect that he had not received the invested amount, thus, it is prayed that some nominal fine amount be imposed upon the convict no.2.
3. Per contra, learned counsel appearing for complainant submitted that in this case, the company accused had mobilized funds to the tune of ₹ 36 lac till March 1997 and since then company accused (convict no.1) has been enjoying mobilized funds of small unorganized investors. It is further submitted that keeping in view the

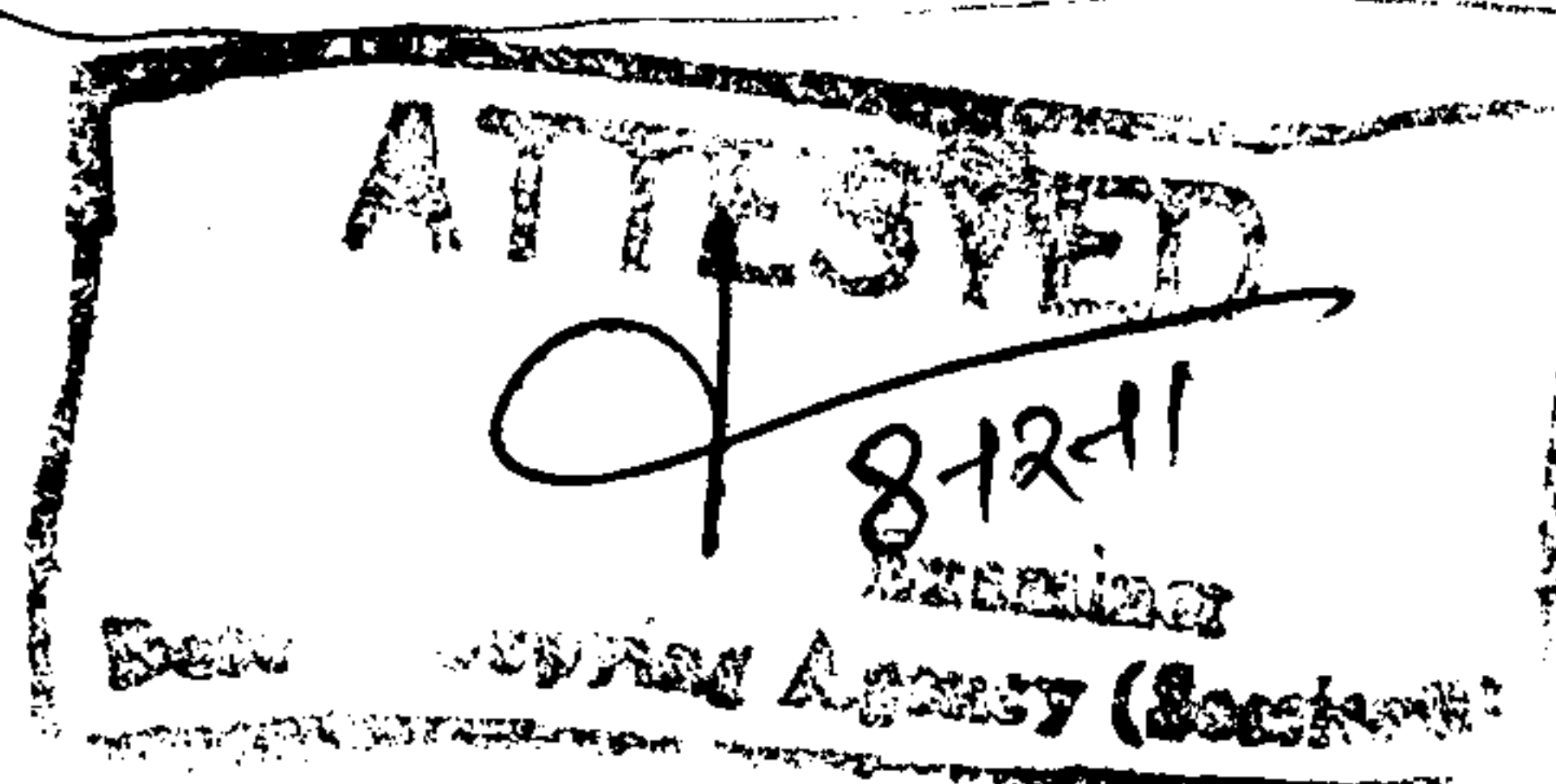




gravity of offence, legislature has deemed it appropriate to enhance the sentence in the year 2002 from one year to 10 years imprisonment or fine to the tune of ₹ 25 crore or both. It is stated that since in the instant case, company accused had not refunded any amount to the investors, convict does not deserve any leniency, thus he prayed for maximum punishment.

4. I have heard Sh. Mukesh Kalia, Advocate, Counsel for convict no.2 and Sh. Sanjay Mann, Advocate, counsel for SEBI, perused the record carefully and gave my thoughtful consideration to their submissions.

5. Admittedly in the instant case, company accused (convict no.1) had mobilized funds to the tune of ₹ 36 lac in the year 1997-1998. It is also undisputed fact that during the trial, convict no.2 failed to produce any evidence on record to show that company accused (convict no.1) had refunded the invested amount to the investors. But simultaneously, it is also true that SEBI had failed to produce any document on record to show that any of the investors had made any complaint to the SEBI about non-receipt of the invested amount. Even SEBI had also not made any effort to find out the investors who have not received the invested amount. Though, it was paramount duty of the company accused to furnish the list of investors to the SEBI, yet SEBI cannot escape from its responsibility. Since company accused (convict no.1) failed to furnish the list of investors, it was the duty of the SEBI to make sincere efforts to know about the investors so that they could be compensated at the appropriate stage. Moreover, there is also delay on the part of SEBI in prosecuting the offenders. Admittedly, the



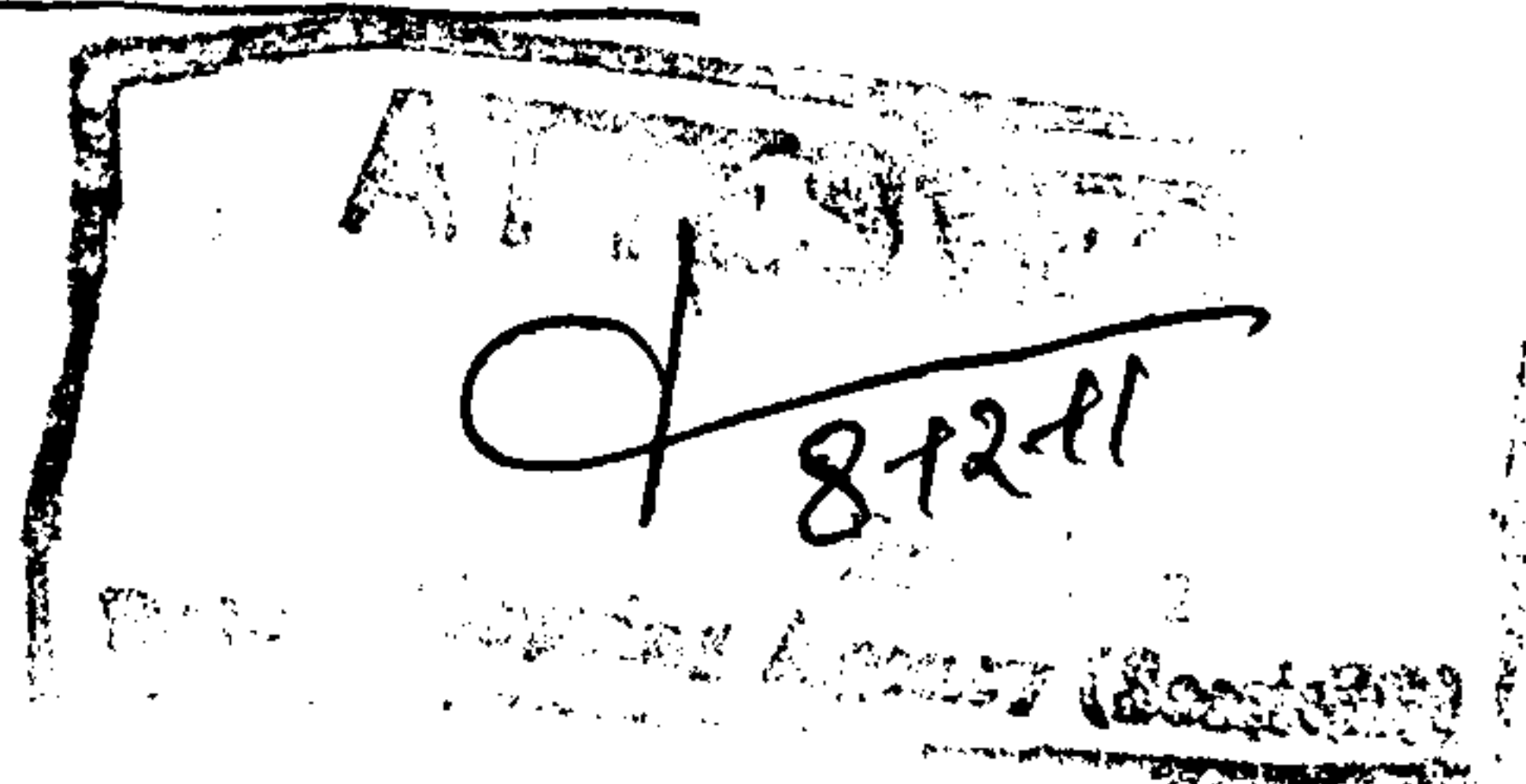


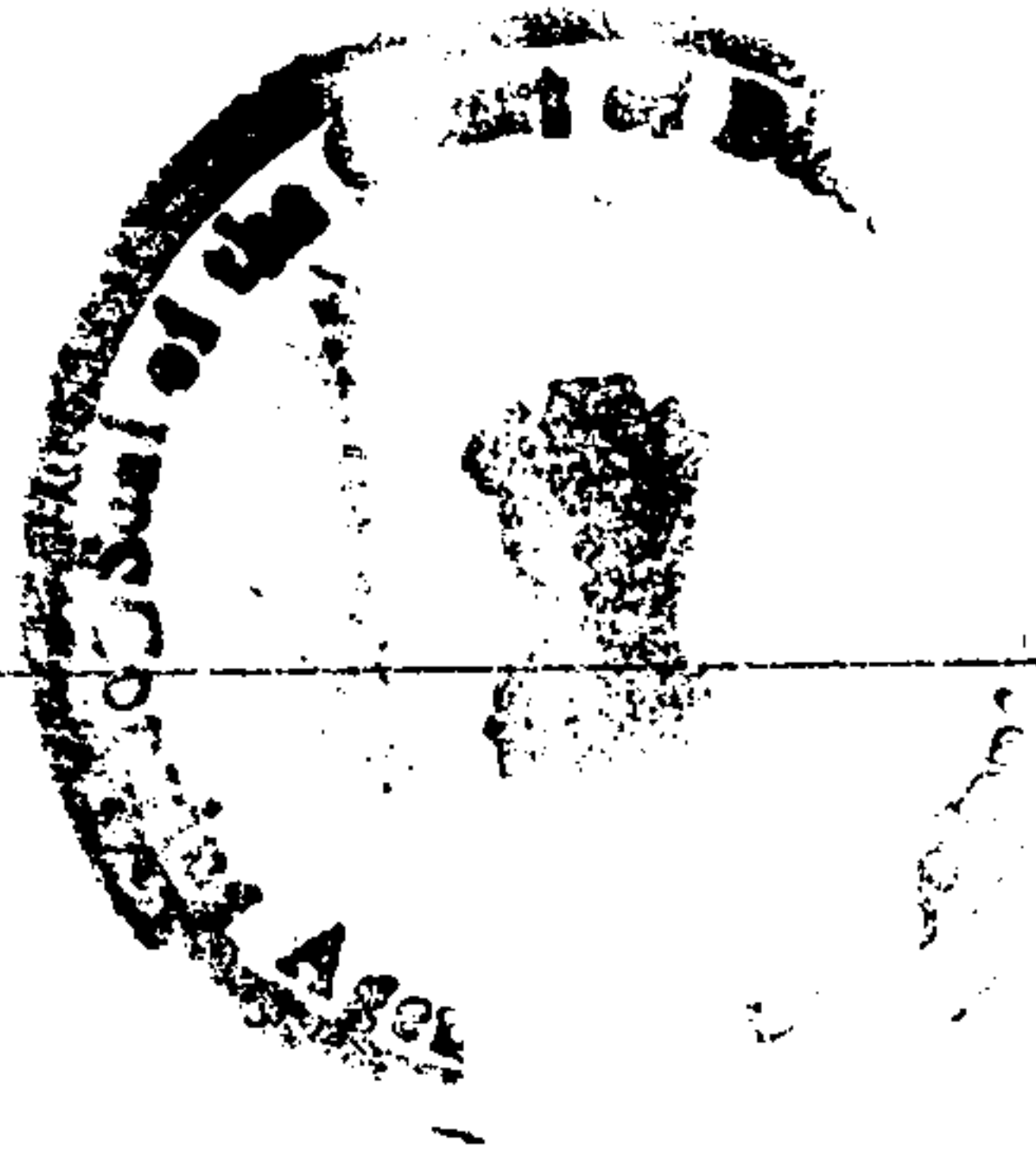
violation was committed in the year 1997-1998, despite that SEBI preferred not to initiate any legal proceedings against the offenders prior to December 2002, which provides an opportunity to the offenders to escape from the clutches of law.

6. Considering all these facts and keeping in view the fact that convict no.2 is female, who is mother of two school going children, I am of the opinion that ends of justice will be met if convicts are burdened with substantial amount of fine. Accordingly, I hereby impose a fine of ₹ 6 lac upon each of convicts i.e convict No.1 Jai Mata Di Agro Plantation Ltd. and convict no.2 Smt. Sangeeta in default convict no. 2 shall undergo three months simple imprisonment for the offence punishable under Section 24 (1) read with Section 27 of the SEBI Act.

7. Since, number of unknown small investors have suffered loss of money due to the act of convicts, they deserve for compensation. Accordingly, the fine amount, if realized shall be utilized to compensate them proportionately under Section 357 of the Code of Criminal Procedure. After realization of the fine amount, SEBI shall issue public notices through print media and other modes to find out the investors. After verification of documents of investors, SEBI shall submit a report in the Court for realization of the amount to the investors. However, amount of compensation shall be realized to the investors only after the expiry of period of appeal or revision or if any appeal or revision is filed then after the decision of such appeal or revision.

8. Fine amount is paid.





SEBI Vs. Jai Mata Di Agro Plantation Ltd. & others

9. Copy of judgment alongwith order on the point of sentence be given to the convicts/their counsel free of cost.

Announced in the open Court.

On this 3<sup>rd</sup> day of December 2011

  
(PAWAN KUMAR JAIN)  
Additional Sessions Judge-01,  
Central/THC/Delhi

Copy given to convict &  
the Court at Bar on  
03/12/11  
Sanyal  
3/12/11

